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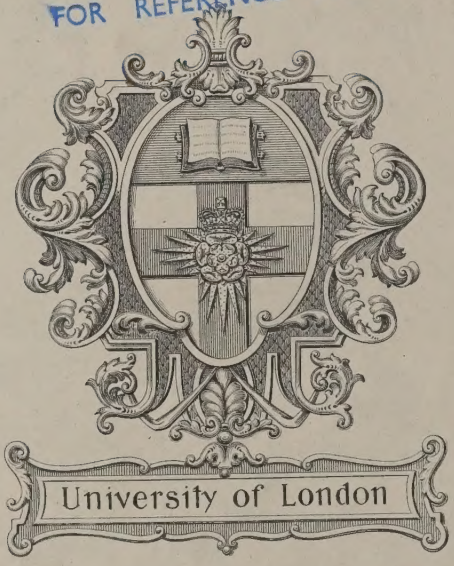

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REPORTS

FROM

COMMITTEES:

ELEVEN VOLUMES.

—(2.)—

ADULTERATION OF FOOD, &c.;
APPELLATE JURISDICTION (HOUSE OF LORDS).

Session
31 *January*——29 *July* 1856.

VOL. VIII.

1856.

REPORTS

FROM

COMMITTEES:

SEVEN VOLUMES

VOL. VIII.

REPORTS FROM COMMITTEES:

1856.

ELEVEN VOLUMES:—CONTENTS OF THE

SECOND VOLUME.

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REPORT

FROM THE

SELECT COMMITTEE

ON

ADULTERATION OF FOOD, &c.;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

APPENDIX AND INDEX.

Ordered, by The House of Commons, *to be Printed,*
22 *July* 1856.

Martis, 12° *die Februarii*, 1856.

Ordered, That a Select Committee be appointed on the Adulteration of Food, Drinks, and Drugs.

Martis, 19° *die Februarii*, 1856.

Committee nominated, of—

Mr. Scholefield.	Mr. Knight.
Mr. Cowper.	Mr. Moffatt.
Mr. Alderman Cubitt.	Mr. Otway.
Viscount Ebrington.	Mr. Peacocke.
Viscount Goderich.	Mr. Sheridan.
Mr. Gregson.	Mr. Swift.
Lord Claud Hamilton.	Mr. Charles Villiers.
Mr. Kinnaird.	Mr. Wise.

Ordered, That the Committee have power to send for Persons, Papers, and Records.

Ordered, That Five be the Quorum of the Committee.

Martis, 22° *die Julii*, 1856.

Ordered, That the Committee have power to Report their Observations, together with the Minutes of Evidence taken before them, to The House.

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REPORT.

THE SELECT COMMITTEE appointed to inquire into the ADULTERATION of FOOD, DRINKS, and DRUGS, and who were empowered to Report their Observations, together with the MINUTES of EVIDENCE, from time to time to The House;——HAVE made further progress in the Matters to them referred, and have agreed to this their final REPORT:—

YOUR COMMITTEE have inquired into the subject referred to them, and in the course of their investigation have examined a great number of witnesses, comprising men of high scientific attainments, as well as those whose practical knowledge as dealers seemed to point them out as persons likely to give useful information.

Among the scientific witnesses examined, were: Dr. Hassall, well known by his able investigations of the subject of adulterations of food; Mr. Warington, chemical operator to the Apothecaries' Company; Dr. Normandy; Mr. Simon and Dr. Letheby, the late and present officers of health in the city of London; Dr. Thompson, professor of chemistry at St. Thomas's Hospital; Mr. Redwood, professor of chemistry to the Pharmaceutical Society; Mr. Simmonds, author of a work on the commercial products of the vegetable kingdom; Mr. Postgate, a surgeon, and chemical lecturer in Birmingham; Mr. Phillips, chief officer of the chemical department of the Board of Inland Revenue; Dr. Taylor, professor of medical jurisprudence, at Guy's Hospital; Dr. Waller Lewis, medical officer to the General Post-office; Mr. Quekett, professor in the Royal College of Surgeons; Mr. Thompson, an analytical chemist; Mr. Blyth, lecturer on natural philosophy, at St. Mary's Hospital; Dr. Challice; Mr. Wakley, coroner for Middlesex; Mr. Jacob Bell; Dr. Carpenter, of University College; Dr. Moore Neligan, of Dublin; Dr. Richter; and Dr. Bingley, professor at the Medical Institute of Sheffield.

Though the witnesses differed both as to the extent to which adulteration is carried on and as to its nature and effects, your Committee cannot avoid the conclusion that adulteration widely prevails, though under circumstances of very various character. As regards foreign products, some arrive in this country in an adulterated condition, while others are adulterated by the English dealer. Other commodities, again, the produce of this country, are shown to be in an adulterated state when passing into the hands of the dealers, while others undergo adulteration by the dealers themselves.

Not only is the public health thus exposed to danger, and pecuniary fraud committed on the whole community, but the public morality is tainted, and the high commercial character of this country seriously lowered both at home and in the eyes of foreign countries. Though, happily, very many refuse, under every temptation, to falsify the quality of their wares, there are, unfortunately, large numbers, who, though reluctantly practising deception, yield to the pernicious contagion of example, or to the hard pressure of competition forced upon them by their less scrupulous neighbours.

Without entering into voluminous details of the evidence taken, your Committee would enumerate the leading articles which have been proved to be more or less commonly adulterated; these are, arrowroot, adulterated with

potato and other starches; bread, with potatoes, plaster of Paris, alum, and sulphate of copper; bottled fruits and vegetables with certain salts of copper; coffee with chicory, roasted wheat, beans, and mangel worzel; chicory with roasted wheat, carrots, sawdust, and Venetian red; cocoa with arrowroot, potato-flour, sugar, chicory, and some ferruginous red earths; cayenne with ground rice, mustard husk, &c., coloured with red lead, Venetian red, and turmeric; gin, with grains of Paradise, sulphuric acid, and cayenne; lard with potato-flour, mutton suet, alum, carbonate of soda, and caustic lime; mustard with wheat-flour and turmeric; marmalade with apples or turnips; porter and stout (though sent out in a pure state from the brewers) with water, sugar, treacle, salt, alum, cocculus Indicus, grains of Paradise, nux vomica, and sulphuric acid; pickles and preserves with salts of copper; snuff with various chromates, red lead, lime, and powdered glass; tobacco with water, sugar, rhubarb, and treacle; vinegar with water, sugar, and sulphuric acid; jalap with powdered wood; opium with poppy capsules, wheat-flour, powdered wood, and sand; scammony with wheat-flour, chalk, resin, and sand; confectionery with plaster of Paris and other similar ingredients, coloured with various pigments of a highly poisonous nature; and acid drops, purporting to be compounded of Jargonelle pear, Ribstone pippin, lemon, &c., with essential oils containing prussic acid or other dangerous ingredients.

The adulteration of drugs is extensively practised; and when it is borne in mind that the correctness of a medical prescription rests on an assumed standard of strength and purity in the drugs or compounds employed, and how frequently life itself depends upon the efficacy of the medicines prescribed, it is difficult to exaggerate the evils arising from this prevalent fraud.

The adulteration of drinks deserves also special notice, because Your Committee cannot but conclude that the intoxication so deplorably prevalent is in many cases less due to the natural properties of the drinks themselves, than to the admixture of narcotics or other noxious substances intended to supply the properties lost by dilution.

Though adulterations prevail more or less in all districts, it may be assumed, as a rule, that the poorer the district, the greater is the amount of adulteration. Nor have the poor the same power to protect themselves against such frauds as their richer neighbours; they are necessarily limited to such means of purchase as are afforded by the immediate locality in which they reside, and are, moreover, too often bound to one dealer by the facilities of credit which he affords them.

These adulterations may be classified under three heads, those of which the object is to lower the price of the article adulterated, by the admixture of substances of a cheaper kind; those which are intended to improve the appearance of the adulterated article, and thus in many cases to deceive the public as to its quality; and those which are practised for the purpose of simulating some property injured or destroyed in the process of adulteration.

Adulterations in each of these classes are of two kinds, those in which are employed substances of an innocuous character, and those in which the mixtures are more or less injurious to health, either directly by the noxious properties of the ingredients, or indirectly by lowering the nutritive qualities of the article adulterated.

In dealing with these various adulterations, it is necessary to distinguish between the pecuniary fraud practised on the public, and the injury to public health. If, as regards the adulteration of articles with substances of a cheaper and innocuous character, the public derive the full benefit of this cheapness in a lower price, it would be difficult, if not unwise, for the Legislature to interfere, unless it could do so by requiring that every such article be sold as a mixture, as distinguished from the article in its pure state. This the law already requires as to the article of coffee, and also as to the article of bread, which, unless made of wheat flour alone, must be distinctly marked with the letter M. But, whenever an article is so adulterated as to involve pecuniary fraud or injury to health, it appears to your Committee to be the duty of the Legislature to provide some efficient remedy.

It has been objected that the best course will be to leave the buyer to take care of himself. But there are many adulterations which it is impossible for the buyer to detect. Already the law takes note of frauds in weights and measures, of injuries likely to result to the public health from the sale of unwholesome animal

animal food, and indeed of many adulterations, though in most cases only with a view to fiscal considerations, and not to those of a moral or sanitary character.

It is said, too, that there are many frauds which legislation cannot reach or punish. But, on the other hand, it would be difficult to tell the numberless frauds which legislation may prevent.

The great difficulty of legislating on this subject lies in putting an end to the liberty of fraud without affecting the freedom of commerce.

With a view to form an opinion as to the best remedy for this growing evil, your Committee have obtained evidence as to the law on adulterations in other countries, and especially in France, Belgium, Germany, and the United States. In this object your Committee have been materially assisted by returns procured through the kindness of Lord Clarendon from some of our Ministers at foreign Courts.

As to the present state of the law in this country, your Committee received much valuable information from Mr. S. R. Goodman, the legal adviser to the Justices of the city of London.

The following is a brief statement of the laws of different countries on the subject of adulterations.

In France, a law, bearing date the 27th March 1851, confirmed and extended the penal code to all adulterations in "alimentary and medicinal substances." To this law was added one of the 5th May 1855, applicable to the adulteration of drinks. The law of March 1851, was founded upon two Reports of a Commission of Inquiry, bearing date the 24th January and 25th February 1851. The law of May 1855 was preceded by a like Report made the 29th March 1855.

The provisions of these laws apply: 1st. To those who shall adulterate any alimentary or medicinal substances intended for sale.

2d. To those who shall sell, or expose for sale such substances, knowing them to be adulterated.

If the article adulterated contains substances injurious to health, the fine ranges from 50 to 500 francs, with imprisonment from three months to two years; these punishments being applicable even in cases where the adulteration is known to the buyer or consumer.

A penalty of 16 to 25 francs, and imprisonment from six to ten days, or one of these modes of punishment, according to circumstances, is imposed on those who, "without legitimate cause," shall have in their shops or warehouses any such adulterated articles. If the adulterated article be injurious to health, the fine may be increased to 50 francs, and the imprisonment to 15 days.

The fine and imprisonment may be doubled if a delinquent has been previously convicted within five years of his last offence.

The adulterated articles shall be confiscated, and if injurious to health, destroyed.

The authorities may make public announcement of the particulars of the offence by placard and advertisement.

A special "Ordonnance de Police," in Paris, applies to the manufacture and sale of confectionery, and forbids the use, for colouring, of all mineral matter, and all poisonous vegetable matter. Confectioners are required to envelope coloured confectionery in paper marked with their name and address, and are made personally responsible for accidents arising from the consumption of the articles they sell. Confectioners' shops are to be visited, for the purpose of seeing that they conform to these regulations. As an additional precaution, the "Conseil de Salubrité" of the city of Paris, a body consisting of eminent physicians, chemists, and other persons, publishes a list of colouring matters which may be employed by confectioners, with instructions as to the manner of mixing them, and a list of the colouring matters, the use of which is expressly forbidden.

In Belgium, a law, bearing date the 17th March 1856, declares that all who shall have adulterated or caused to be adulterated any articles of food or drink intended for sale, shall be liable to an imprisonment from eight days to one year, and a fine from 50 to 1,000 francs, or to either punishment alone.

The penalties are divided into two classes. The first applies to persons who have adulterated, or caused to be adulterated, eatables, drinkable liquors, or any articles of food intended to be offered for sale, the penalty being, as already stated, from eight days to a year's imprisonment, and a fine of from 50 to 1,000

francs. In the same class are included persons who shall knowingly sell, or expose for sale, adulterated articles, or shall have given instructions calculated to facilitate or lead to such adulteration.

The second class comprises persons who unintentionally sell, or expose for sale, adulterated food, and who are liable only to simple police punishments.

The mere fact of knowingly keeping adulterated articles of food intended for sale, renders the person so offending liable to imprisonment from a week to a year, and to a fine of from 26 to 500 francs. When the punishment reaches six months' imprisonment, the court can withdraw the "patente" (license to trade) from the offender during the whole period of his incarceration, which is equivalent to preventing him from carrying on his business. A copy of the conviction is to be posted up at the door of the person condemned, or inserted in such journals as the Court may determine, at the expense of the culprit. All adulterated articles of food in the possession of the delinquent are to be confiscated.

In Prussia, the municipal law enacts that "no person shall knowingly sell or communicate to other persons for their use articles of food or drink which possess properties prejudicial to health, under a penalty of fine or bodily punishment." Those who are found guilty of knowingly selling victuals which are damaged or spoiled, or mixed with deleterious additions, may be held incapable of carrying on the same branch of business. The articles may be confiscated. Whosoever mixes articles of food with foreign substances, for the purpose of increasing their weight or bulk, or of deceiving purchasers as to their quality, is liable to be proceeded against for fraud. With regard to drugs the law forbids their being dispensed by any other persons than apothecaries legally appointed.

In Hamburg, adulterations of food are the subject of police regulations, involving fine and imprisonment.

In Lubeck, such adulterations are treated as acts of fraud, and dealt with by police authority. The grinding of blighted corn with good corn is prohibted.

In Holland, by a law of the 22d May 1829, any person adulterating bread or flour, or any article of food or drink, with any poisonous matter, is liable to an imprisonment of from two to five years, and a fine of from two hundred to five hundred florins, and to the revocation of his "patente" during his imprisonment. The same penalties apply to those who knowingly sell such adulterated articles, and to those who supply the forbidden ingredient, knowing the purpose for which it is to be used. A less severe punishment is inflicted on those who adulterate articles of food or drink with ingredients not poisonous, but injurious to health, as well as on those who offer them for sale. To the other penalties are added the publication of the names of the offenders, and the confiscation of the adulterated goods.

In Spain, the law, besides authorising the inspection of drugs at the Custom-house, permits the dispensing of drugs only by apothecaries legally appointed, and absolutely forbids the sale of secret medicines.

In the United States special laws have been passed "to prevent the importation of adulterated and spurious drugs and medicines." By these it is enacted that all drugs and medicines shall, before passing the custom-house, be examined and appraised, as well in reference to their quality and purity as to their value. All medicinal preparations are to have the name of the manufacturer affixed to each parcel. Adulterated or deteriorated drugs and medicines are not to be allowed to pass the custom-house; but the owner or consignee has the right of calling for a re-examination, or further analysis, if dissatisfied with the examiner's return. The Secretary of the Treasury is to appoint suitably qualified persons, at each of the ports of New York, Boston, Philadelphia, Baltimore, Charleston, and New Orleans, as special examiners of drugs and medicines. A Treasury Minute prescribes the manner of carrying out the Act, and gives a list of the principal articles, with the result of special tests agreeing with the standards referred to in the law; and all articles are entitled to entry when ascertained by analysis to conform to those standards. Patent and secret medicines are subject to the same examination, and disposition after examination, as other medical preparations, and are not permitted to pass the custom-house unless the examiner be satisfied that they are fit and safe to be used for medicinal purposes.

In the State of New York, the law expressly forbids adulterations of flour, hops,

hops, and spirits. Any one knowingly offering for sale flour mixed with Indian meal, or with any other mixture, or with unsound flour, is liable to a penalty of five dollars for every cask. Any one mixing with hops any foreign or improper substances, or in any manner adulterating their quality, is deemed guilty of misdemeanor, and punishable by fine or imprisonment, or both. Any one adulterating spirits with any poisonous substance, or substance injurious to health, or any one selling such spirits, knowing them to be adulterated, is deemed guilty of misdemeanor, and punishable by fine or imprisonment or both; the fine in no case to exceed 1,000 dollars, and the imprisonment in no case to exceed four years. The law also provides against the adulteration of oils, against the deceptive packing of hay, and even against frauds in linens and other goods, containing fewer yards of measurement than are marked upon them.

In England the law affords redress to consumers in cases of adulteration by action, if the injury be individual in its character; by indictment, if the injury be general; by summary charge before a magistrate; and by proceedings instituted by the Excise. The process of action or indictment is at once too costly and too cumbrous for general adoption. That by summary charge before a magistrate, as well as that originating with the Excise, applies only to a few special articles which are named in particular Acts, or which are subject to the supervision, for fiscal purposes, of the Board of Inland Revenue; but your Committee are of opinion that it would be most desirable that, in all cases of the sale of an adulterated or fictitious article, a cheap and easy remedy, by summary charge before a magistrate, should be afforded to the person upon whom the fraud had been practised, and they would strongly recommend the propriety of such a change in the present law on this subject as would effect this object.

Your Committee desire specially to call attention to the provisions of the Bread Act, 6 & 7 Will. 4, c. 37. Section 2 provides that bread may be made of wheat flour, barley, rye, oats, buckwheat, Indian corn, peas, beans, rice, or potatoes, with any common salt, pure water, eggs, milk, barm, leaven, potato or other yeast, and with no other ingredients, subject to certain regulations. Any mixture besides those allowed in Section 2 involves a penalty of 10 *l.*, or not less than 5 *l.*; or, in default, an imprisonment not exceeding six months, with or without hard labour; and, if the magistrate think fit, publicity of the offence by advertisement. Any one mixing with the corn, meal, or flour any ingredient not the genuine produce of the corn or grain; or any one selling, or offering for sale, separately or mixed, any meal or flour of one sort of grain, as the meal or flour of any other sort, or any ingredient mixed with the meal or flour so sold, is liable to a penalty of 20 *l.* and not less than 5 *l.* All bread made with mixed meal or flour must be marked with a Roman M; the penalty for neglecting this provision being a fine not exceeding 10 *s.* for every pound weight of bread not so marked. Magistrates, or peace officers by their warrants, may search premises, and seize any adulterated flour or bread, and search for any forbidden ingredient. The penalty, if ingredients for adulteration are found, is 10 *l.* or not less than 40 *s.*, for the first offence, 5 *l.* for the second, and 10 *l.* for every subsequent offence, or in default, six months' imprisonment, with publicity as to the names of offenders. The Act also provides for an appeal to quarter sessions, and declares that no person shall be convicted unless complaint is made within 48 hours after the offence, or within such reasonable time as to the justices may seem fit.

Your Committee have given the provisions of the Bread Act in some detail, because it seems to them to comprise much that may be useful in framing a measure applicable to adulterations generally.

It is impossible to frame any enactment on this subject which shall rely on strict definitions. The object of the law is to strike at fraud, and wherever a fraudulent intention can be proved, there to inflict a penalty. What constitutes fraud must be left to the interpretation of the administrators of the law. Thus mixtures of an innocuous character, made known by the seller, or used for the preservation of the article, cannot be forbidden without danger to the needful freedom of commerce, and ought not to be interpreted as coming within the provisions of a penal law. Nor should those provisions apply wherever the seller can afford satisfactory proof that he has himself been deceived, and was not conscious

of the adulteration practised; unless he have evinced a culpable ignorance of the trade which he professes to follow.

Subject to these qualifications, the law should be clear and positive in forbidding adulteration, and in punishing those who practise it.

Hitherto the progress of legislation has not kept pace with the ingenuity of fraud, which has not scrupled to avail itself of every improvement in chemistry or the arts which could subserve its purpose.

Although, however, the means of adulteration have greatly increased, so also, fortunately, have the facilities for detection, especially by the improved use of the microscope, which has been employed by Dr. Hassall and others with signal success.

At first, no doubt, some difficulty would be experienced in finding persons qualified to conduct the required chemical and microscopical examinations; but the want will soon give rise to the needful supply. This want has been already felt by the Board of Inland Revenue, which has been compelled, for the purposes of the analyses requisite in cases of adulterated articles of Excise, to educate persons for this special duty. In addition to about 4,000 officers, scattered over the country, whose experience enables them to detect many adulterations, and to discover cases of strong suspicion, the Board employs about 60 to 70 analytical chemists, whose numbers are recruited by students, educated for this purpose at University College, to the number of 14 in every year. Mr. Phillips, the chief officer of the chemical department of the Board of Inland Revenue, states that the practice is for the officers, if they suspect a trader of adulterations, or on information given to them, to go and procure samples. Many are competent to examine samples on the spot. If they have any doubt of their own judgment, they send them to the laboratory to be further examined. And he adds, as showing the result of the system adopted by the Board, that adulteration has been totally stopped in some articles, and much diminished in others, from the very fact that traders know they are liable to inspection by the Excise officers.

It has been suggested that the prevention of adulterations in food might be accomplished by an extension of the system of the Board of Inland Revenue; but Your Committee are of opinion that no machinery for this purpose will work satisfactorily unless the agents employed derive their authority from corporate or other local governing bodies.

It will be desirable, therefore, to empower municipal or other local or district authorities to appoint an officer, or officers, who, on complaint made, or in cases of reasonable suspicion, shall procure portions of any article supposed to be adulterated, with a view to their examination or analysis by some duly qualified person appointed for that purpose. On the report of such persons, if it confirm the suspicion of adulteration, a summons shall be issued, and the case be investigated before the justices, who shall have power to inflict summary punishment, by fine or imprisonment, in every case where pecuniary fraud or danger to health shall have been proved. The justices should also be empowered to publish the names of offenders. The advantages of publicity have been urged by many witnesses, and especially by Dr. Hassell and Mr. Wakley, who attribute a recent great diminution in the amount of adulteration to the publication of names and other particulars in the reports of the "'Lancet' Commission." It is essential that a right of appeal should lie to the Court of Quarter Sessions.

With regard to coloured confectionery, Your Committee recommend that authority should be given to local Boards of Health, or other governing bodies, to forbid the use, for colouring, of all mineral matter, and all poisonous vegetable matter.

But although Your Committee desire to leave the execution of the law against adulteration in the hands of the local authorities, they are of opinion that very valuable assistance would be afforded to such bodies in ascertaining the fact of adulteration, if one or more scientific analysers were to be appointed under the authority of the General Board of Health, to whom the local authorities might, whenever they thought fit, refer any articles seized under suspicion of adulteration for analysis, and who would thus enable the persons charged with the administration of the law to obtain at once, and without cost, a fully competent opinion in all difficult cases.

These analysers should also undertake to examine any articles sent to them by private individuals, on payment of the expenses of such examination.

Your Committee would also suggest that the General Board of Health should from time to time issue such information as to the nature of the adulterations of articles of food, &c., injurious to health, as may be obtained in the progress of scientific research on this subject, and as would serve to guide the local authorities in their endeavours to detect these frauds.

With reference to drugs, Your Committee are of opinion that no inspection at the outports would guarantee to the consumer the purity of commodities passing through the hands of intermediate parties; and the exclusion of impure drugs would operate injuriously, by interfering with the supply obtained by scientific processes, calculated to extract valuable matter even from products seemingly almost worthless.

It has been suggested that chemists and druggists should be allowed to exercise their calling only under license. At present, to use the words of one of the witnesses, Mr. Jacob Bell, a man may be a shoemaker to-day and a chemist and dispenser of drugs to-morrow, though he cannot assume the name of "pharmaceutical chemist." The question of licences, however, may perhaps be properly deferred till it be seen how far the efforts of the Pharmaceutical Society and a more general system of inspection may prove successful. The existing powers of inspection in England are confined to the College of Physicians and the Apothecaries' Company. The powers of the latter are very limited, extending only to apothecaries' shops, and in no way to those of chemists and druggists. The College of Physicians has authority to inspect both one and the other; but this authority is confined to the limits of the city of London, where inspection takes place three times a year. The inspection, however, seems to be too cursory to be of any great utility.

It has been shown that much good has arisen from the establishment of the Pharmaceutical Society, the members of which being specially educated in the knowledge of drugs, are better able than heretofore to make proper selections and to detect adulterations. Several witnesses, too, have borne testimony to the great advantage which would ensue if poor-law guardians and managers of hospitals and other similar institutions would, instead of accepting, as they too often do, the lowest tender for drugs, and, indeed, for articles of food also, cause them to be properly inspected, and, if needful, analysed before admitting them into use.

Though not coming strictly within the scope of the inquiry entrusted to them, Your Committee cannot forbear calling attention to the evidence concerning patent medicines, the sale of poisons, and the state of the pharmacopœias of the three kingdoms.

With regard to patent medicines, there can be no doubt that the public health is endangered by the use of several of these compounds; and Your Committee are of opinion that the stamp duty, by giving them a seeming Government sanction, has an injurious influence in encouraging their sale and consumption, and should be abandoned, whenever this can be done with a due regard to the wants of the public revenue.

The unrestricted sale of poisons is a matter of pressing importance, and deserves the early attention of the Legislature. At the present moment, the most violent poisons may be universally sold, without any restriction except such as is afforded by the sense of moral responsibility on the part of the dealer. It is needless to point out the serious consequences which frequently ensue from this unrestrained freedom. To take a familiar instance, it is stated in evidence that the essential oil of bitter almonds, and what is called "almond flavour," of very various strength, and containing highly dangerous elements, are openly and commonly sold for culinary purposes, and, in the hands of servants wholly ignorant of their properties, used in quantities often dangerous and sometimes fatal. It is well worthy of consideration, whether the sale of poisons should not be forbidden, unless under the authority of a medical prescription, or under such conditions, as to witnesses, and formal entries of the names and addresses of purchasers, as may secure the needful amount of caution.

The evil arising from the existence of three distinct and, in some important instances, widely differing Pharmacopœias for the three kingdoms, is one too

evident to need enforcement. The result is, that many of the prescriptions of one country are not only inefficacious, but often absolutely dangerous, if made up in either of the others. One of the witnesses states, that an Edinburgh prescription containing a solution of morphia, made up in London, would involve the patient's taking twice the quantity intended. On the other hand, a patient taking prussic acid under an Edinburgh prescription, made up in London, would be taking only half the quantity intended; the Edinburgh prussic acid being twice the strength of the prussic acid of the London Pharmacopœia. This is an evil which can be remedied only by the combined efforts of the medical authorities of England, Ireland, and Scotland, to whom the subject should, without delay, be referred.

22 *July* 1856.

PROCEEDINGS OF THE COMMITTEE.

Veneris, 22° *die Februarii*, 1856.

MEMBERS PRESENT:

Mr. Scholefield.	Mr. Kinnaird.
Mr. Moffatt.	Mr. Cowper.
Mr. Peacocke.	Mr. Gregson.
Lord Claud Hamilton.	Mr. Swift.

Mr. SCHOLEFIELD is called to the Chair.

The Committee considered the course of proceedings.

[Adjourned till Wednesday next, at half-past Twelve o'clock.

Mercurii, 27° *die Februarii*, 1856.

MEMBERS PRESENT:

Mr. SCHOLEFIELD in the Chair.

Lord Claud Hamilton.	Mr. Kinnaird.
Mr. Peacocke.	Mr. Gregson.
Mr. Swift.	Mr. Villiers.
Mr. Wise.	Mr. Sheridan.
Mr. Moffatt.	Mr. Otway.
Viscount Goderich.	Mr. Cowper.
Mr. Alderman Cubitt.	

The Committee examined Professor *Alfred Taylor* and Mr. *James Abbis*.

[Adjourned till Friday next, at half-past Twelve o'clock.

Veneris, 29° *die Februarii*, 1856.

MEMBERS PRESENT:

Mr. SCHOLEFIELD in the Chair.

Mr. Moffatt.	Lord Claud Hamilton.
Viscount Goderich.	Mr. Sheridan.
Mr. Alderman Cubitt.	Mr. Kinnaird.
Mr. Ayshford Wise.	Mr. Knight.
Mr. Peacocke.	Mr. Cowper.

The Committee examined Mr. *Waller Lewis*, Professor *John Quekett*, and Mr. *Lewis Thompson*.

[Adjourned till Wednesday next, at half-past Twelve o'clock.

Mercurii, 5° *die Martii*, 1856.

MEMBERS PRESENT:

Mr. SCHOLEFIELD in the Chair.

Viscount Goderich.	Mr. Otway.
Mr. Moffatt.	Mr. Peacocke.
Mr. Sheridan.	Mr. Cowper.
Mr. Kinnaird.	Mr. Gregson.
Mr. Ayshford Wise.	Viscount Ebrington.

The Committee examined Mr. *Lyndsay Blyth*, Mr. *William Bastick*, and Mr. *James Baiss*.

[Adjourned till Friday next, at half-past Twelve o'clock.

Veneris, 7° *die Martii*, 1856.

MEMBERS PRESENT:

Mr. SCHOLEFIELD in the Chair.

Viscount Goderich.	Mr. Villiers.
Mr. Moffatt.	Mr. Gregson.
Mr. Sheridan.	Mr. Cowper.
Mr. Peacocke.	Mr. Kinnaird.
Mr. Ayshford Wise.	

The Committee examined Mr. *William Emmerson*, Mr. *Edward Farrand*, *Dr. Challice*, Mr. *Rufus Usher*, and Mr. *Richard Grey*.

[Adjourned till Wednesday next, at half-past Twelve o'clock.

Mercurii, 12° *die Martii*, 1856.

MEMBERS PRESENT:

Mr. SCHOLEFIELD in the Chair.

Mr. Ayshford Wise.	Viscount Ebrington.
Mr. Moffatt.	Mr. Peacocke.
Viscount Goderich.	Mr. Villiers.
Mr. Cowper.	Mr. Swift.
Mr. Kinnaird.	Mr. Gregson.

The Committee examined *Dr. Negligan*, Mr. *Philip Ripley*, Mr. *William Weston*, Mr. *Richard Locock*, Mr. *Frederick Calvert*, and Mr. *Reginald Richardson*.

[Adjourned till Wednesday, the 2d of April, at half-past Twelve o'clock.

Mercurii, 2° *die Aprilis*, 1856.

MEMBERS PRESENT:

Mr. SCHOLEFIELD in the Chair.

Mr. Moffatt.	Mr. Alderman Cubitt.
Viscount Goderich.	Viscount Ebrington.
Mr. Kinnaird.	Mr. Swift.
Mr. Ayshford Wise.	Mr. Gregson.
Mr. Peacocke.	Mr. Otway.
Mr. Knight.	

The Committee examined Mr. *Thomas Wakley*.

Viscount GODERICH, in the absence of Mr. SCHOLEFIELD, is called to the Chair.

The Committee examined Mr. *Jacob Bell*, and Dr. *Carpenter*.

[Adjourned till Friday next, at Half-past Twelve o'clock.

Veneris,

Veneris, 4° *die Aprilis*, 1856.

MEMBERS PRESENT:

Viscount Goderich.	Mr. Cowper.
Mr. Ayshford Wise.	Viscount Ebrington.
Mr. Villiers.	Mr. Kinnaird.
Mr. Alderman Cubitt.	Mr. Peacocke.
Mr. Moffatt.	Mr. Gregson.
Mr. Otway.	

Viscount GODERICH, in the absence of Mr. SCHOLEFIELD, is called to the Chair.

The Committee examined Mr. *John Woodin* and Mr. *William Atkinson*.

[Adjourned till Wednesday next, at half-past Twelve o'clock.

Mercurii, 9° *die Aprilis*, 1856.

MEMBERS PRESENT:

Mr. SCHOLEFIELD in the Chair.

Viscount Goderich.	Mr. Swift.
Mr. Ayshford Wise.	Mr. Kinnaird.
Lord Claud Hamilton.	Mr. Peacocke.
Mr. Moffatt.	Mr. Gregson.

The Committee re-examined Mr. *James Drew*, Mr. *Divett*, a Member of the House, Mr. *Julian Rodgers*, Mr. *Edwin Wickham*, and Mr. *Ayshford Wise*, a Member of the House.

[Adjourned till Wednesday next, at half-past Twelve o'clock.

Mercurii, 16 *die Aprilis*, 1856.

MEMBERS PRESENT:

Lord Claud Hamilton.	Mr. Otway.
Mr. Moffatt.	Mr. Swift.
Mr. Peacocke.	Mr. Kinnaird.
Mr. Ayshford Wise.	

Lord CLAUD HAMILTON, in the absence of Mr. SCHOLEFIELD, is called to the Chair.

The Committee examined Mr. *Potto Brown*, Mr. *Thomas Callard*, Mr. *Alexander Robertson*, and Mr. *Alexander Clapperton*.

[Adjourned till Friday, the 25th instant, at half-past Twelve o'clock.

Veneris, 25° *die Aprilis*, 1856.

MEMBERS PRESENT:

Mr. SCHOLEFIELD in the Chair.

Mr. Peacocke.	Viscount Ebrington.
Mr. Kinnaird.	Mr. Moffatt.
Viscount Goderich.	Mr. Gregson.
Lord Claud Hamilton.	Mr. Sheridan.

The Committee examined Mr. *John Jackson*, Mr. *Emile Richter*, and Mr. *Stafford Allen*.

[Adjourned till Wednesday next, at half-past Twelve o'clock.

Mercurii, 30° die Aprilis, 1856.

MEMBERS PRESENT:

Mr. SCHOLEFIELD in the Chair.

Viscount Ebrington.	Mr. Otway.
Mr. Peacocke.	Lord Claud Hamilton.
Mr. Alderman Cubitt.	Mr. Kinnaird.
Mr. Ayshford Wise.	Mr. Gregson.
Mr. Sheridan.	Mr. Moffatt.
Viscount Goderich.	

The Committee examined Mr. *Samuel Goodman*, Mr. *Peter Mackenzie*, Dr. *Charles Bingley*, and Mr. *John Postgate*.

[Adjourned till Friday next, at half-past Twelve o'clock.

Veneris, 2° die Maii, 1856.

MEMBERS PRESENT:

Mr. SCHOLEFIELD in the Chair.

Viscount Ebrington.	Mr. Alderman Cubitt.
Mr. Ayshford Wise.	Mr. Gregson.
Mr. Moffatt.	Mr. Cowper.
Mr. Kinnaird.	Mr. Knight.

The Committee examined Mr. *Arthur Hassall*, and Mr. *George Moffatt*, a Member of the House.

[Adjourned.

Veneris, 11° die Julii, 1856.

MEMBERS PRESENT:

Mr. SCHOLEFIELD in the Chair.

Mr. Swift.	Mr. Peacocke.
Mr. Moffatt.	Mr. Kinnaird.
Mr. Cowper.	Viscount Goderich.
Mr. Alderman Cubitt.	Mr. Knight.
Mr. Sheridan.	

Draft Report proposed by the Chairman, read 1°, as follows:

"YOUR Committee have inquired into the subject referred to them, and in the course of their investigation have examined a great number of witnesses, comprising men of high scientific attainments, as well as those whose practical knowledge as dealers seemed to point them out as persons likely to give useful information.

"Among the scientific witnesses examined, were; Dr. Hassall, well known by his able investigations of the subject of adulterations of food; Mr. Warrington, chemical operator to the Apothecaries' Company; Dr. Normandy; Mr. Simon and Dr. Letheby, the late and present officers of health in the city of London; Dr. Thompson, professor of chemistry at St. Thomas's Hospital; Mr. Redwood, professor of chemistry to the Pharmaceutical Society; Mr. Simmonds, author of a work on the commercial products of the vegetable kingdom; Mr. Postgate, a surgeon, and chemical lecturer in Birmingham; Mr. Phillips, chief officer of the chemical department of the Inland Board of Revenue; Dr. Taylor, professor of medical jurisprudence, at Guy's Hospital; Dr. Waller Lewis, medical officer to the General Post-office; Mr. Quekett, professor in the Royal College of Surgeons; Mr. Thompson, an analytical chemist; Mr. Blyth, lecturer on natural philosophy at St. Mary's Hospital; Dr. Challice; Mr. Wakley, coroner for Middlesex; Mr. Jacob Bell; Dr. Carpenter, of University College; Dr. Moore Neligan, of Dublin; Dr. Richter; and Dr. Bingley, professor at the Medical Institute of Sheffield.

"Though the witnesses differed both as to the extent to which adulteration is carried on and as to its nature and effects, your Committee cannot avoid the conclusion that adulteration widely prevails, though under circumstances of very various character. As regards foreign

foreign products, some arrive in this country in an adulterated condition, while others are adulterated by the English dealer. Other commodities, again, the produce of this country, are shown to be in an adulterated state when passing into the hands of the dealers, while others undergo adulteration by the dealers themselves.

" Not only is the public health thus exposed to danger, and pecuniary fraud committed on the whole community, but the public morality is tainted, and the high commercial character of this country seriously lowered both at home and in the eyes of foreign countries. Though, happily, the majority refuse, under every temptation, to falsify the quality of their wares, there are, unfortunately, too many who, though reluctantly practising deception, yield to the pernicious contagion of example, or to the hard pressure of competition, forced upon them by their less scrupulous neighbours.

" Without entering into voluminous details of the evidence taken, your Committee would enumerate the leading articles which have been proved to be more or less commonly adulterated; these are, arrowroot, adulterated with potato and other starches; bread, with potatoes, plaster of Paris, alum, and sulphate of copper; bottled fruits and vegetables, with certain salts of copper; coffee, with chicory, roasted wheat, beans, and mangel-worzel; chicory, with roasted wheat, carrots, sawdust, and Venetian red; cocoa, with arrowroot, potato-flour, sugar, chicory, and some ferruginous red earths; cayenne, with ground rice, mustard husk, &c., coloured with red lead, Venetian red, and turmeric; gin with water, grains of Paradise, sulphuric acid, and cayenne; lard, with potato-flour, mutton suet, alum, carbonate of soda, and caustic lime; mustard, with wheat-flour and turmeric; marmalade, with apples or turnips; oatmeal, with barley-flour; porter and stout (though sent out in a pure state from the brewers), with water, sugar, treacle, salt, alum, cocculus Indicus, grains of Paradise, nux vomica, and sulphuric acid; pickles and preserves, with salts of copper; snuff, with various chromates, red lead, lime, and powdered glass; tobacco, with water, sugar, rhubarb, and treacle; vinegar, with water, sugar, and sulphuric acid; jalap, with powdered wood; opium, with poppy capsules, wheat-flour, powdered wood, and sand; scammony, with wheat-flour, chalk, resins, and sand; coloured confectionery, with plaster of Paris and other similar ingredients, coloured with various pigments of a highly poisonous nature; and acid drops, purporting to be compounded of Jargonelle pear, Ribstone pippin, lemon, &c., with essential oils containing prussic acid or other dangerous ingredients.

" The adulteration of drugs is extensively practised, and when it is borne in mind how frequently life itself depends upon the efficacy of the medicines prescribed, it is difficult to exaggerate the evils arising from this prevalent fraud.

" It has been shown that much good has arisen from the establishment of the Pharmaceutical Society, the members of which being specially educated in the knowledge of drugs, are better able than heretofore to make proper selections and to detect adulterations. Several witnesses, too, have borne testimony to the great advantage which would ensue if poor-law guardians and managers of hospitals and other similar institutions would, instead of accepting, as they too often do, the lowest tender for drugs, and, indeed, for articles of food also, would cause them to be properly inspected, and, if needful, analysed, before admitting them into use.

" The adulteration of drinks deserves also special notice, because your Committee cannot but conclude that much of the drunkenness so deplorably prevalent is less due to the natural properties of the drinks themselves, than to the admixture of narcotics and other noxious substances intended to supply the properties lost by dilution.

" Though adulterations prevail more or less in all districts, it may be assumed, as a rule, that the poorer the district, the greater is the amount of adulteration. Nor have the poor the same power to protect themselves against such frauds as their richer neighbours; they are necessarily limited to such means of purchase as are afforded by the immediate locality in which they reside, and are, moreover, too often bound to one dealer by the facilities of credit which he affords them.

" These adulterations may be classified under three heads, those of which the object is to lower the price of the article adulterated, by the admixture of substances of a cheaper kind; those which are intended to improve the appearance of the adulterated article, and thus in many cases to deceive the public as to its quality; and those which are practised for the purpose of simulating some property injured or destroyed in the process of adulteration.

" Adulterations in each of these classes are of two kinds; those in which are employed substances of an innocuous character, and those in which the mixtures are more or less injurious to health, either directly by the noxious properties of the ingredients, or indirectly by lowering the nutritive qualities of the article adulterated.

" In dealing with these various adulterations, it is necessary to distinguish between the pecuniary fraud practised on the public, and the injury to public health. If, as regards the adulteration of articles with substances of a cheaper and innocuous character, the public derive the full benefit of this cheapness in a lower price, it would be difficult, if not unwise, for the Legislature to interfere, unless it could do so by requiring that every such article be sold as a mixture, as distinguished from the article in its pure state. This the law already requires as to the article of coffee, and also as to the article of bread, which, unless

made of wheat flour alone, must be distinctly marked with the letter M. But, whenever an article is so adulterated as to involve pecuniary fraud or injury to health, it appears to your Committee to be the duty of the Legislature to provide some efficient remedy.

"It has been objected that the best course will be to leave the buyer to take care of himself. But there are many adulterations which it is impossible for the buyer to detect. Already the law takes note of frauds in weights and measures, of injuries to the public health by the sale of unwholesome animal food, and indeed of many adulterations, though, excepting as to bread and flour, only with a view to fiscal considerations, and not to those of a moral or sanitary character.

"It is said, too, that there are many frauds which legislation cannot reach or punish. But, on the other hand, it would be difficult to tell the numberless frauds which legislation may prevent.

"The great difficulty of legislation on this subject lies in putting an end to the liberty of fraud without affecting the freedom of commerce, in punishing the exceptional wrong without interfering with the general right dealing.

"With a view to form an opinion as to the best remedy for this growing evil, your Committee have obtained evidence as to the law on adulterations in other countries, and especially in France, Belgium, Germany, and the United States. In this object your Committee have been materially assisted by returns procured through the kindness of Lord Clarendon from some of our Ministers at foreign Courts.

"As to the present state of the law in this country, your Committee received much valuable information from Mr. S. R. Goodman, the legal adviser to the Justices of the City of London.

"The following is a brief statement of the laws of different countries on the subject of adulterations. In France, a law, bearing date the 27th March 1851, confirmed and extended the penal code to all adulterations in 'alimentary and medicinal substances.' To this law was added one of the 5th May 1855, applicable to the adulteration of drinks. The law of March 1851 was founded upon two elaborate and able Reports of a Commission of Inquiry, bearing date the 24th January and 25th February 1851. The law of May 1855 was preceded by a like Report, made the 29th March 1855.

"The provisions of these laws apply: 1st. To those who shall adulterate any alimentary or medicinal substances intended for sale:

"2d. To those who shall sell or expose for sale such substances, knowing them to be adulterated.

"If the article adulterated contains substances injurious to health, the fine ranges from 50 to 500 francs, with imprisonment from three months to two years; these punishments being applicable even in cases where the adulteration is known to the buyer or consumer.

"A penalty of 16 to 25 francs, and imprisonment from six to ten days, or one of these modes of punishment, according to circumstances, is imposed on those who, 'without legitimate cause,' shall have in their shops or warehouses any such adulterated articles. If the adulterated article be injurious to health, the fine may be increased to 50 francs, and the imprisonment to 15 days.

"The fine and imprisonment may be doubled if a delinquent has been previously convicted within five years of his last offence.

"The adulterated articles shall be confiscated, and if injurious to health, destroyed.

"The authorities may make public announcement of the particulars of the offence by placard and advertisement.

"A special 'Ordonnance de Police,' in Paris, applies to the manufacture and sale of confectionery, and forbids the use, for colouring, of all mineral matter, and all poisonous vegetable matter. Confectioners are required to envelope coloured confectionery in paper marked with their name and address, and are made personally responsible for accidents arising from the consumption of the articles they sell. Confectioners' shops are to be visited, for the purpose of seeing that they conform to these regulations. As an additional precaution, the "Conseil de Salubrité" of the city of Paris, a body consisting of eminent physicians, chemists, and other persons, publishes a list of colouring matters which may be employed by confectioners, with instructions as to the manner of mixing them, and a list of the colouring matters, the use of which is expressly forbidden.

"In Belgium, a law, bearing date the 17th March 1856, declares that all who shall have adulterated or cause to be adulterated any articles of food or drink intended for sale, shall be liable to an imprisonment of eight days to one year, and a fine of 50 to 1,000 francs, or to either punishment alone.

"The penalties are divided into two classes. The first applies to persons who have adulterated, or caused to be adulterated, eatables, drinkable liquors, or any articles of food intended to be offered for sale, the penalty being, as already stated, from eight days to a year's

year's imprisonment, and a fine of from 50 to 1,000 francs. In the same class are included persons who shall knowingly sell, or expose for sale, adulterated articles, or shall have given instructions calculated to facilitate or lead to such adulteration.

"The second class comprises persons who unintentionally sell, or expose for sale, adulterated food, and who are liable only to simple police punishments.

"The mere fact of knowingly keeping adulterated articles of food intended for sale, renders the persons so offending liable to an imprisonment from a week to a year, and to a fine of from 26 to 500 francs. When the punishment reaches to six months' imprisonment the court can withdraw the 'patente' (license to trade) from the offender during the whole period of his incarceration, which is equivalent to preventing him from carrying on his business. A copy of the conviction is to be posted up at the door of the person condemned, or inserted in such journals as the court may determine, at the expense of the culprit. All adulterated articles of food in the possession of the delinquent are confiscated.

"In Prussia, the municipal law enacts that 'no person shall knowingly sell or communicate to other persons for their use articles of food or drink which possess properties prejudicial to health, under a penalty of fine or bodily punishment.' Those who are found guilty of knowingly selling victuals which are damaged or spoiled, or mixed with deleterious additions, may be held incapable of carrying on the same branch of business. Whosoever mixes articles of food with foreign materials for the purpose of increasing their weight or bulk, or of deceiving purchasers as to their quality, is liable to be proceeded against for fraud.

"In Hamburg, adulterations of food are the subject of police regulations, involving fine and imprisonment.

"In Lubeck, such adulterations are treated as acts of fraud, and dealt with by police authority. The grinding of blighted corn with good corn is prohibited.

"In Holland, by a law of the 22d May 1829, any person adulterating bread or flour, or any article of food or drink, with any poisonous matter, is liable to an imprisonment of from two to five years, and a fine of from two hundred to five hundred florins, and to the revocation of his 'patente' during his imprisonment. The same penalties apply to those who supply the forbidden ingredient, knowing the purpose for which it is used. A less severe punishment is inflicted on those who adulterate articles of food or drink with ingredients injurious to health, as well as on those who offer them for sale. To the other penalties are added the publication of the names of the offenders, and the confiscation of the adulterated goods.

"In the United States special laws have been passed 'to prevent the importation of adulterated and spurious drugs and medicines.' By these it is enacted that all drugs and medicines shall, before passing the custom-house, being examined and appraised, as well in reference to their quality and purity as to their value. All medicinal preparations are to have the name of the manufacturer affixed to each parcel. Adulterated or deteriorated drugs and medicines are not allowed to pass the custom-house; but the owner or consignee has the right of calling for a re-examination, or further analysis, if dissatisfied with the examiner's return. The Secretary of the Treasury is to appoint suitably qualified persons at each of the ports of New York, Boston, Philadelphia, Baltimore, Charlestown, and New Orleans, as special examiners of drugs and medicines. A Treasury Minute prescribes the manner of carrying out the Act, and gives a list of the principal articles, with the result of special tests agreeing with the standards referred to in the law; and all articles are entitled to entry when ascertained by analysis to conform to those standards. Patent or secret medicines are subject to the said examination, and disposition after examination, as other medical preparations, and are not permitted to pass the custom-house unless the examiner be satisfied that they are fit and safe to be used for medicinal purposes.

"In the State of New York, the law expressly forbids adulterations of flour, hops, and spirits. Any one knowingly offering for sale flour mixed with Indian meal, or with any other mixture, or with unsound flour, is liable to a penalty of five dollars for every cask. Any one mixing with hops any foreign or improper substances, or in any manner adulterating their quality, is deemed guilty of misdemeanor, and punishable by fine or imprisonment, or both. Any one adulterating spirits with any poisonous substance, or substance injurious to health, or any one selling such spirits, knowing them to be adulterated, is deemed guilty of misdemeanor, and punishable by fine or imprisonment, or both; the fine in no case to exceed 1,000 dollars, and the imprisonment in no case to exceed four years. The law also provides against the adulteration of oils, against the deceptive packing of hay, and even against frauds in linens and other goods, containing fewer yards of measurement than are marked upon them. In Spain the law, besides authorising the inspection of drugs at the custom-house, permits the dispensing of drugs only by apothecaries legally appointed, and absolutely forbids the sale of secret medicines.

"In England the law affords redress to consumers in cases of adulteration, by action if the injury be individual in its character, by indictment if the injury be general, by summary charge before a magistrate, and by proceedings instituted by the Excise. The process of action or indictment is at once too costly and too cumbrous for general adoption. That by summary charge before a magistrate, as well as that originating with the Excise,

applies only to a few special articles which are named in particular Acts, or which are subject to the supervision, for fiscal purposes, of the Board of Inland Revenue. Your Committee, however, desire specially to call attention to the provisions of the Bread Act, 6 & 7 Will. 4, c. 37. Section 2 provides that bread may be made of wheat flour, barley, rye, oats, buckwheat, Indian corn, peas, beans, rice, or potatoes, with any common salt, pure water, eggs, milk, barm, leaven, potato or other yeast, and with no other ingredients, subject to certain regulations. Any mixture besides those allowed in section 2 involves a penalty of 10 *l.*, or not less than 5 *l.*; or, in default, an imprisonment not exceeding six months, with or without hard labour; and, if the magistrate think fit, publicity of the offence by advertisement. Any one mixing with the corn, meal, or flour any ingredient not the genuine produce of the corn or grain; or any one selling, or offering for sale, separately or mixed, any meal or flour of one sort of grain, as the meal or flour of any other sort, or any ingredient mixed with the meal or flour so sold, is liable to a penalty of 20 *l.* and not less than 5 *l.* All bread made with mixed meal or flour must be marked with a Roman M; the penalty for neglecting this provision being a fine not exceeding 10 *s.* for every pound weight of bread not so marked. Magistrates, or peace officers by their warrants, may search premises, and seize any adulterated flour or bread, and search for any forbidden ingredient. The penalty, if ingredients for adulteration are found, is 10 *l.*, or not less than 40 *s.*, for the first offence, 5 *l.* for the second, and 10 *l.* for every subsequent offence, or in default, six months' imprisonment, with publicity as to the names of offenders. The Act also provides for an appeal to quarter sessions, and declares that no person shall be convicted unless complaint is made within 48 hours after the offence, or within such reasonable time as to the justices may seem fit.

"Your Committee have given the provisions of the Bread Act in some detail, because it seems to them to comprise much that may be useful in framing a measure applicable to adulterations generally.

"It is impossible to frame any enactment on this subject which shall rely on strict definitions. The object of the law is to strike at fraud; and wherever a fraudulent intention can be proved, then to inflict a penalty. What constitutes fraud must be left to the interpretation of the administrators of the law. Thus mixtures of an innocuous character, made known by the seller, or used for the preservation of the article, cannot be forbidden without danger to the needful freedom of commerce, and ought not to be interpreted as coming within the provisions of the law. Nor should those provisions apply wherever the seller can afford satisfactory proof that he has himself been deceived, and was not conscious of the adulteration practised; unless he have evinced a culpable ignorance of the trade which he professes to follow.

"Subject to these qualifications the law should be clear and positive in forbidding adulteration, and in punishing those who practise it. Since it is indisputably wrong to offer a counterfeit silver coin for a pound of good coffee, it should be made equally culpable to offer a pound of counterfeit coffee for a good silver coin.

"Hitherto the progress of legislation has not kept pace with the ingenuity of fraud, which has not scrupled to avail itself of every improvement in chemistry or the arts which could subserve its purpose.

"Although, however, the means of adulteration have greatly increased, so also, fortunately, have the facilities for detection, especially by the improved use of the microscope, which has been employed by Dr. Hassall and others with signal success.

"At first, no doubt, some difficulty would be experienced in finding persons qualified to conduct the required chemical and microscopical examinations; but the want will soon give rise to the needful supply. This want has been already felt by the Board of Inland Revenue, which has been compelled, for the purposes of the analyses requisite in cases of adulterated articles of Excise, to educate persons for this special duty. In addition to about 4,000 officers, scattered over the country, whose experience enables them to detect many adulterations, and to discover cases of strong suspicion, the Board employs about 60 to 70 analytical chemists, whose numbers are recruited by students, educated for this purpose at University College, to the number of 14 in every year. Mr. Phillips, the chief officer of the chemical department of the Board of Inland Revenue, states that the practice is for the officers, if they suspect a trader of adulterations, or on information given to them, to go and procure samples. Many are competent to examine samples on the spot. If they have any doubt of their own judgment, they send them to the laboratory to be further examined. And he adds, as showing the result of the system adopted by the Board, that adulteration has been totally stopped in some articles, and much diminished in others, from the very fact that traders know they are liable to inspection by the Excise officers.

"It has been suggested that the prevention of adulterations in food might be accomplished by an extension of the Board of Inland Revenue; but your Committee are of opinion that no machinery for this purpose will work satisfactorily unless the agents employed derive their authority from corporate or other local governing bodies.

"It will be desirable, therefore, to empower municipal or other local or district authorities to appoint an officer or officers, who, on complaint made, or in cases made of reasonable suspicion, shall procure portions of any article supposed to be adulterated, with a view to their

their examination or analysis by some duly qualified person acting as public analyser. On the report of such public analyser, if it confirm the suspicion of adulteration, a summons shall be issued and the case be investigated before the justices, who shall have power to inflict sammary punishment, by fine or imprisonment, in every case where pecuniary fraud or injury to health shall have been proved. The justices also shall be empowered to publish the names of offenders. The advantages of publicity have been urged by many witnesses, and especially by Dr. Hassall and Mr. Wakley, who attribute a recent great diminution in the amount of adulteration to the publication of names and other particulars in the reports of the 'Lancet commission.' It is essential that a right of appeal should lie to the Court of Quarter Sessions.

"With regard to coloured confectionery, authority should be given to Boards of Health, or other governing bodies, to forbid the use, for colouring, of all mineral matter, and all poisonous vegetable matter.

"With reference to drugs, your Committee are of opinion that no inspection at the outports would guarantee to the consumer the purity of commodities passing through the hands of intermediate parties, and the exclusion of impure drugs would operate injuriously, by interfering with the supply obtained by scientific processes, calculated to extract valuable matter even from products seemingly almost worthless.

"It has been suggested that chemists and druggists should be allowed to exercise their calling only under license. At present, to use the words of one of the witnesses, Mr. Jacob Bell, a man may be a shoemaker to-day and a chemist and dispenser of drugs to-morrow, though he cannot assume the name of 'pharmaceutical chemist.' The question of licenses, however, may perhaps be properly deferred till it be seen how far the efforts of the Pharmaceutical Society, and a more general system of inspection may prove successful. The existing powers of inspection are confined to the College of Physicians and the Apothecaries' Company. The powers of the latter are very limited, extending only to apothecaries' shops, and in no way to those of chemists and druggists. The College of Physicians has authority to inspect both one and the other; but this authority is confined to the limits of the city of London, where inspection takes place three times a year; the inspection, however, seems too cursory to be of any great utility.

"Though not coming strictly within the scope of the inquiry entrusted to them, your Committee cannot forbear calling attention to the evidence concerning patent medicines, the sale of poisons, and the state of the Pharmacopœias of the three kingdoms.

"With regard to patent medicines, there can be no doubt that the public health is greatly endangered by the unrestricted sale of compounds, many of which are in a high degree injurious. Whether it would be advisable to compel, as is done in France, all compounders of such medicines to communicate confidentially to a Board, to be appointed for the purpose, particulars of the materials of which the medicines are composed, is a question for grave deliberation; but your Committee are of opinion that the stamp-duty, by giving a seeming Government sanction to patent medicines, has an injurious influence in encouraging their sale and consumption, and might well be abandoned, whenever this can be done with a due regard to the wants of the public revenue.

"The unrestricted sale of poisons is a matter of pressing importance, and deserves the early attention of the Legislature. At the present moment, the most violent poisons may be universally sold, without any restriction except such as is afforded by the sense of moral responsibility on the part of the dealer; and it is needless to point out the serious consequences which may and do ensue from this unrestrained freedom. To take a familiar instance, it is stated in evidence that the essential oil of bitter almonds, and what is called 'almond flavour,' of very various strength, and containing highly dangerous elements, are openly and commonly sold for culinary purposes, and, in the hands of servants wholly ignorant of their properties, used in quantities often dangerous and sometimes fatal. It is well worthy of consideration, whether the sale of poisons should not be forbidden, unless under the authority of a medical prescription, or under such conditions, as to witnesses, and formal entries of names and addresses of purchasers, as may secure the needful amount of caution.

"The evil arising from the existence of three distinct and, in some important instances, widely differing Pharmacopœias for the three kingdoms, is one too evident to need enforcement. The result is, that many of the prescriptions of one country are not only inefficacious, but often absolutely dangerous, if made up in either of the others. One of the witnesses states, that an Edinburgh prescription containing a solution of morphia, made up in London, would involve the patient's taking twice the quantity intended. On the other hand, a patient taking prussic acid under an Edinburgh prescription, made up in London, will be taking only half the quantity intended; the Edinburgh prussic acid being twice the strength of the prussic acid of the London Pharmacopœia. This is an evil which can be remedied only by the combined efforts of the medical authorities of England, Ireland, and Scotland, to whom the subject should, without delay, be referred."

Draft Report proposed by Mr. Moffatt read 1°, as follows:

"Your Committee have to report that, during the two Sessions in which they have sat for the purpose of taking evidence on the subject referred to them, 57 witnesses have been

examined, comprising upwards of 30 physicians, surgeons, analytical chemists and druggists, many of whom are distinguished for their researches upon the question of adulteration in the various articles forming the subject of this inquiry. The other witnesses included gentlemen holding high office in the fiscal and sanitary departments of the State, brokers, dealers in tea and groceries, millers and bakers, persons acquainted with the vending of beer, pickles, and other articles of general consumption, as at present supplied to the public.

"Your Committee are of opinion that the various and interesting evidence that has been produced cannot fail to be useful in informing the public mind in regard to the various alterations and mixtures which appear to obtain in many important articles of general consumption; while the evidence produced tends to establish the fact of a number of these articles being more or less mixed with foreign ingredients, it also establishes the fact that these foreign ingredients are generally not prejudicial to health, and are mainly used either to improve the appearance or the quality of the article, and thus to enable the vendor to obtain a higher price; or otherwise, as in the mixture of chicory with coffee, to enable him to supply to the public a satisfactory commodity at less price than that at which the unmixed article could be rendered.

"A brief analysis of the leading points of the evidence received in regard to some of the principal articles of food and drink, will tend to demonstrate the universality of the practice above referred to, the conflicting character of the evidence in regard to the effect of these adulterations, and the impracticability, in most instances, of attempting any further interference by legislative enactment.

"Bread.

Dr. Hassall. 21 of Sess. 1855.

"Bread and flour, according to the evidence of a physician who came forward to prove the case of general adulteration, appear to be largely mixed with alum; as of 24 samples of bread, all contained alum, but no other substance except wheat flour; and this was also the case upon a second analysis of 25 samples, including three sold by a company.

Dr. Normandy. 536 of 1855. 564 of 1855. 571 of 1855. 812 of 1855. John Mitchell. 1063 of 1855. R. D. Thompson, M. D., F. R. S. 1188-9 of 1855. 1197 of 1855. 1198 of 1855. 2173 of 1855. Mr. Postgate. 2117-8 of 1855.

"Another doctor of medicine also testified to the same effect, that 'alum seems to be almost the exclusive adulteration of bread and flour,' and that he 'never found a sample of bread without alum;' that in one case plaster of Paris was discovered in some flour, and the person who ground it was fined 100 *l.* by a magistrate. The Health Officer of the City of London states his belief that alum is universally used in bread. A celebrated analytical chemist, and author of a work on the "Adulteration of Food," stated that he had found nothing positively deleterious in bread except alum. The Professor of Chemistry at St. Thomas's Hospital stated that the principal adulteration of flour within his knowledge was the admixture of inferior flour with the better sorts, and that he had found alum in bread, but did not believe it was mixed in injurious quantities. This opinion was also expressed by the chief officer of the chemical department of the Board of Inland Revenue; while an active promoter of this inquiry only referred to alum as being generally used in the adulteration of bread, so far as his own experience was concerned, and stated that 'a baking company established at Birmingham to supply the public with genuine bread, met with very great opposition from the public on account of the colour of their bread; having to explain to the people that bread was not naturally of a white appearance, but of a yellowish colour; and they had considerable difficulties in establishing their business.'

Dr. Taylor. 35 of Sess. 1856.

"It further appears, from the evidence of the Professor of Medical Jurisprudence and Chemistry at Guy's Hospital, that of many samples of best bread examined, there was only one which contained any trace of alum, or of anything except salt and phosphate of lime, with a little carbonate of lime; in an examination of bread once or twice a year for the last 10 or 12 years, he has found no alum; this bread being that which is chiefly sold at the west end of London.

Lewis Thompson. 442 of 1856. 450 of 1856.

"From the examination of an analytical chemist, who is a licentiate of the Apothecaries' Company, and also a Member of the College of Surgeons, it appears that he discovered the constituent of alum in 78 samples of bread purchased within the previous eight months, and he therefore assumed that alum had been mixed with the bread, although he was unable to find it; neither does he consider the finding of its constituent parts any proof that alum had been mixed in the bread, inasmuch as they might have been put in separately, and would not then form alum.

Mr. W. Bastick. 887 of 1856.

"Another eminent analytical and consulting chemist and druggist stated that bread is almost constantly adulterated with alum.

Dr. Challice. 1400 of 1856.

"A physician residing in Bermondsey stated his conviction that bread was generally adulterated with alum, producing injurious effects upon the health.

Dr. Carpenter. 2420-41 of 1856.

"The Examiner in Physiology in the University of London, and Professor of Medical Jurisprudence in University College also expressed the same opinion.

Mr. Rodgers. 3279 of 1856. 3257 of 1856.

"An analytical chemist and surgeon, residing in Pimlico, stated that "Bread, no matter what price was paid for it, or whether supplied to workhouses or to her Majesty the Queen, was adulterated with alum."

Mr. Callard. 3594 of 1856.

"A London baker, who came forward on behalf of the trade, to deny that alum was universally used in bread, admitted that it was extensively used by the majority of London bakers.

"Tea.

"Tea.

"It appears from the evidence in regard to tea, that in the years 1847 to 1851, a certain quantity of spurious tea was imported from China; but that the importations were checked and ultimately stopped by its character becoming generally known, and the public refusing to purchase. In 1852, some which had cost the importers 1 *s.* per lb., had to be sold for 6 *d.* and 4 *d.* per lb., and ultimately to be exported, as the public refused to use it.

1856.
1884–1887, 1888.
1885–1911.
1954, 1955.
1977. 1980.

"That tea is usually sold to the public as imported, that there is scarcely any adulteration in this country, and that tea reaches the consumer in a purer state than most other articles.

"Evidence was given as to the facing or colouring of green teas; but this seems to be practised by the Chinese merely for the purposes of producing an article more in demand, both for the English and American markets; but it did not appear that the ingredients employed in thus facing or improving the appearance of green teas were likely to have any prejudicial effect upon the health of the consumer.

250. 252. 256. 269. 276.290. 1518. 1833, 1834. 1911. 1931. 1933. 1953. 1954. 2013. 2018. 2020. 1956.

"Coffee.

"That, according to the evidence produced in 1855, coffee was stated by one witness to be, 'with scarcely any exceptions, adulterated with chicory and other substances. The analysis was made at the commencement of the investigations published in the 'Lancet,' four years ago;' (since which time the Excise have prohibited, under a penalty of 100 *l.*, the mixture of chicory wth coffee, except sold in labelled packages). 'The result of the examination of 10 samples purchased since, was that two, labelled 'mixture of chicory and coffee,' were sold as coffee; one was properly sold as a mixture of chicory and coffee, and seven were genuine.

Dr. Hassall. 15 of 1855.

"That it was further stated by other physicians, that 'coffee is very much adulterated, but never found anything injurious. Chicory contains a little starch, a little gum, a little glucose sugar, a little fat, and is therefore nutritious to a certain extent;' and 'has found chicory present in almost all coffee, in various proportions. It has no nutritive qualities.'

Dr. Normandy. 682 of 1855. 693 of 1855. Dr. Thompson, F.R.S. 1211 of 1855.

"While from the evidence of the chief officer of the Excise analytical department, it appears that of 12,483 samples of coffee only 12 9-10ths per cent. were adulterated. A mixture of coffee and chicory may be sold, provided it is visibly labelled, 'This is a mixture of chicory and coffee;' if these words do not appear clearly on the package the dealer is proceeded against. Of the 12,483 cases examined, the chief were from the 30th October 1852 to August 1855. From the 30th October 1852 to the 29th October 1853, 5,276 samples were examined; of these 3,378 were purchased as coffee, 2,890 of this number being genuine, and 488 adulterated. The number of mixtures purchased in that year was 1898; 904 were properly labelled, 283 not labelled at all, and 19 contained other substances than chicory. From 30 October 1853 to 29 October 1854, 4,624 samples were examined; of these 3,434 were represented as genuine, and on examination 2,910 were found to be genuine, and 524 adulterated. Of the mixtures 1,208 were purchased; 882 were properly labelled, 265 improperly labelled, and 61 not labelled at all; and no other substance than chicory was found in them.

G. Phillips, Esq. 2149 of 1855. 2189 of 1855. 2191 of 1855.

"Sugar.

"That sugar appears, by the evidence of one witness, to be rarely adulterated; two out of 36 samples contained flour, one being tapioca, the other potato flour. Brown sugar contained particles of cane, so minute as only to be discernible by the microscope, and the insects acari were almost invariably present in brown sugar. Of 15 samples of refined sugar none contained acari or cane; animal matter was observed in 10 cases; sawdust, like fragments of woody fibre, was present in 12 samples.

Dr. Hassall. 5 of 1855. 16 of 1855.

"From the evidence of another witness, it appears that 'sugar is adulterated with lime; it is sugar refined in this country, and arises from imperfection in the process, not intentional fraud.'

R. D. Thompson, M.D., F.R.S. 1269. 1273-4.

"Cane sugar is adulterated with starch sugar, and sugar from potatoes; this is not at all injurious, but lessens its sweetening power. 'A year or two previous, when there were diseased potatoes, tons of sugar were made from them at one establishment in a week; the disease in the potato did not touch the starch.'

Dr. Letheby. 2757 of 1855. 2758 of 1855. 2773 of 1855.

"To exhibit the erroneous impressions that exist upon the subject matter of this inquiry, the under-mentioned extract is given from the evidence of a highly intelligent witness: 'I assume that there is 10 per cent. of adulteration in sugar, and that therefore the revenue suffered a loss of half a million on the importation of sugar in 1854.' Bases his estimate upon the lowest calculation of Dr. Hassall's averages. (Dr. Hassall's is the first evidence quoted under this head; viz., 'Sugar is rarely adulterated.')

Peter L. Simmonds. 2043.

"Milk.

"That milk appears to be generally diluted with water; but only one well-authenticated case of adulteration by any other substance has come before your Committee, and that instance

1856. 712. 714. 1485. 1496.

instance consisted of a small quantity of chalk being discovered at the bottom of the vessel containing the milk. One other case was mentioned in which a sediment, supposed to be chalk, was also discovered, but in this instance your Committee ascertained that the milk was supplied under contract, at a price quite inconsistent with the supply of genuine milk, viz., 5 ½ *d.* per barn gallon delivered in Bermondsey from Essex.

"Beer.

"That in regard to beer the evidence tends clearly to show that the public do not generally obtain pure beer and full measure at the prices paid; while the evidence is equally conclusive that at said prices, pure beer and full quantity could not be rendered by the vender except at a loss upon the price paid to the brewer.

"A general practice of adulteration is alleged to take place in the article sold by retail. It appears that beer is considerably diluted on the publican's premises with water, and that various drugs or other matters are frequently introduced to make up for the loss of strength caused by such dilution. Several witnesses have asserted that cocculus indicus is largely imported for the purpose of adulterating beer, no other use being known for that article; two cases were instanced where it was actually discovered, one being on the premises of a brewer, and in the other on those of a publican.

"Spirits.

Hassall. 5. 15. 93. 95. 150, 151. 97. 101. 105, 106. 112. 735 of 1855. 738. Dr. Normandy. 94. 96–7–8. 97–8–9. 2280. 1931. Dr. Redwood. 1932. 1904. 1905. 1906. 2255 of 1855. 2269 of 1855. 2256 of 1855.

"That gin appears to be generally diluted for the purpose of lowering the price, and that various decoctions are subsequently introduced to supply the peculiar properties supposed to belong to the pure spirit. Many of these articles, however, although 'possessing very terrifying names, as oil of vitriol, or sulphuric acid, cannot, in the proportions in which they are used, be looked upon as poisons.' It is, for instance, believed that pure gin, that is, alcohol flavoured with juniper berry, is not to be met with, inasmuch as all rectifiers appear to use 'gin flavourings,' made from various aromatic and carminative substances, such as orange peel, coriander, &c., which please the palate of the consumer better than pure gin, of which indeed the public scarcely know the taste. If a retailer 'never sold anything but absolute alcohol, it could not be drunk by the public without their being greatly injured. The publican would then have to dilute it with such a quantity of water as would render it suitable as a beverage.' The publican does not profess to sell absolute alcohol, and the public knowing nothing of the manufacture of gin, are content with what is usually sold under that denomination: the term gin being merely conventional, and applying equally to the mixture sold by the publican as to the spirit sent out by the distiller, and is in fact more generally understood to represent the mixture. For the same reason the revenue does not sustain loss, because no man could drink proof spirits, and if the publican did not dilute the spirit, he 'must fall back upon the wholesale dealer and have it made up to the strength he requires, sweetened and all.'

754–758 of 1855. 1530–1535 of 1856.

As respects brandy, no evidence of adulteration was adduced before your Committee; two witnesses alluded to the substitution of British for foreign brandy.

93 of 1855. 1856. 4539–4542.

As to rum, one witness only stated that he had, upon analysis, discovered, in addition to water, a residuary extract of cayenne pepper, which had probably been added in the shape of tincture of capsicum.

"Wine.

71 to 79 of 1856.

"That port wine appears, in some cases, to be made up of mixtures of other damaged wines and brandy, with certain ingredients intended to impart to the compound the characteristics of genuine port wine. These ingredients, in the case put before the Committee, as stated in a recent action against the London Dock Company, were not injurious to health, but would produce an astringent tonic mixture. Damaged wines are said to be bought by publicans for the purpose of being manufactured as above described.

1502–1504 of 1856.

That sherry wine appears to be less the subject of manufacture than port.

"Coloured Confectionery and Flavouring Substances.

56. 69. 150 of 1855. 2768, 2769 of 1855. 2771, 2772 of 1855. 8. 9. 14. 28 of 1856.

That the ingredients used in colouring confectionery, and flavouring in cooking, are many of them of a most injurious character, and some of a deadly poisonous nature, as instanced in cases where fatal results have ensued from their use, especially in regard to coarse confectionery, and its effects upon the life and health of infants and very young children.

"Pickles.

1563–1569 of 1855.

"That pickles were formerly made in copper vessels, by which a green colour and poisonous character were obtained; this practice appears now to be discontinued by the more extensive manufacturers.

"Drugs.

"Drugs.

"That in regard to drugs, your Committee find that previously to the establishment of the Pharmaceutical Society in 1841, drugs were to a very considerable extent sold in an impure condition; so much so, as to induce the formation of that society for the purpose of promoting the education of pharmaceutical chemists, and thereby to prevent, among other abuses, the adulteration of drugs.

The Pharmaceutical Society number some 3,000 members. Sess. 1856. 2315, 2316.

"That subsequently a very considerable improvement has gradually taken place in many of the drugs and chemicals which are sold, in consequence of more perfect processes of manufacture, the tests for their purity having become more generally known, and the attention of chemists having been drawn to the subject.

1800 to 1808 of 1855. 2317. 2319. 2320.

"That one cause of impure drugs finding their way into consumption, may perhaps be found in the fact that any person, however unqualified by his previous pursuits, may open a chemist and druggists' shop; and although totally unable to judge of the quality of the drugs supplied, may be made the vehicle for dispensing impure or fraudulently adulterated articles.

2342 of 1856. 2345 of 1856. 2346 of 1856. 572 of 1855. 573 of 1855. 2718 of 1855. 2719 of 1855. 1797 of 1856.

"That very serious consequences have not unfrequently ensued from accidentally taking poisonous medicines intended for external application, arising from the fact of draughts and lotions being sent to the same person in bottles of similar size and shape, and from the want of some generally recognisable mode of distinguishing liquids or powders of a poisonous nature.

"Preventive Measures.

"That several preventive measures were suggested to your Committee, to some of which they now briefly advert. One suggestion propounded by a gentleman who is a solicitor, and chairman of a local Board of Health, was to pass an Act of Parliament, giving the requisite authority, and then to issue a Treasury Minute stating what articles should not be dealt in, and any person found dealing therein after such notice, to have interrogatories filed against him, and be compelled to answer them upon oath, either admitting or denying his guilt; these interrogatories to be followed up by power to the registrar of the Court, or other officer to be appointed, to inspect premises and books, and to examine witnesses. If the guilt be admitted, an injunction should issue from the Court forbidding him to continue the sale; disregard of the injunction to be a contempt of Court, and to involve liability to imprisonment until he gives satisfaction to the Court against a repetition of the offence.

Preventive Measures, No. 1. Mr. Wallington.

"Another suggestion, emanating from a former Member of this House, a gentleman whose opinions are entitled to great consideration, from his long experience and present public position, was to the effect that a light active machinery should be set in motion, through the General Board of Health; that articles should be purchased and examined, and thereafter the names and addresses of the vendors should be published; the effect of which would be to inflict disgrace upon the dishonest, and to confer a benefit upon the honest trader; these names and addresses should be placarded in public situations, such as the doors of churches, chapels, vestries, town halls, police stations. This publicity, together with power to certain officers to enter at all hours between sunset and sunrise, every place where they had any ground for suspecting that adulterations were practised, and the infliction of light penalties in cases where the adulterations were found to be prejudicial to health, the offence being at the same time treated as one against public morals, followed up by imprisonment after three or four convictions, would, in the opinion of witness, put an end to the practice of adulteration in three or four years. That with proper powers, adulteration might be put down in London at an expense of 10,000 *l.* a year, the employment of some 10 persons being sufficient, say six purchasers and four examiners.

Preventive Measures, No. 2. Mr. Wakley.

"The last-mentioned proposition embodies the principle of many other suggestions made to your Committee, some extending it by causing the party convicted of adulteration to exhibit, for a period of six or nine months, a placard in his own shop window, stating the fact of such adulteration having been proved against him, and the sentence inflicted; also that all tradesmen should be registered, and struck off the registry after repeated instances of adulteration proved. Other witnesses have referred to the systems of inspection adopted in France, Germany, and America, as being worthy of imitation, but these appear to involve so many hindrances to the free course of supply and demand, as to unfit them for the commercial usages of this country.

Other Preventive Measures.

"That upon the first of the two principal propositions for remedying the evils complained of, your Committee would observe, that it appears calculated to arrive, indirectly, at the same result as may be obtained in a much more simple and summary manner under the existing law, in respect to most of the articles to which it would be applicable, viz., fine and imprisonment; for, although the proposer disclaims any intention of inflicting a fine, it cannot be doubted that the offending party would be mulcted in the costs of the proceedings, and to any one acquainted with the expense of filing and answering interrogatories, and obtaining an injunction from a court of law, it will be apparent that the amount will far exceed that of the minimum fines imposed by law for many of the offences which might be supposed to fall within the scope of the plan suggested, the principal difference being that, instead

Preventive Measures, Mr. Wallington.

instead of such sums, or a moiety thereof, being paid, as now provided, into the public Exchequer, they would find their way into the hands of the legal profession, to whom recourse would naturally be had by at least one, if not both, parties, while the suggested imprisonment for contempt of court, on a repetition of the offence, would complete the double sentence of 'fine and imprisonment.' Irrespective of the foregoing objections, there is the very grave one of calling upon a man to convict himself, a practice totally at variance with the principle of English law.

Preventive Measures, Mr. Wakley's.

"That the second series of preventive measures appear also open to numerous objections. It is suggested that examinations should be made of various articles, and the results published in every practicable way. Upon this, your Committee would observe, that unless the articles of the whole of the tradesmen in a town could be examined at the same time, it would be a manifest injustice to advertise the names of some few as persons who sell pure goods, the tendency of which would be to procure them additional and exclusive custom at the expense of their fellow tradesmen, who might be found selling articles equally good, although not reported on by the official inspectors or analysers; the injustice of the case being moreover increased by the fact, that in carrying out such an investigation, considerable expense would be incurred, to which the unreported tradesmen would have to contribute through the rate or tax collector. Upon the question of this expense, your Committee cannot agree with the propounder of the measure, who stated that he thought he could put down adulteration in London for 10,000 *l.* yearly, employing for the purpose six purchasers and three or four examiners. That it appears by a Return from the Inland Revenue Department, that the number of licenses granted to persons within the bills of mortality is 48,750; and inasmuch as most of the articles represented to be adulterated are the subject of sale in those shops, it follows that each of the six purchasers would have to undertake the visitation of upwards of 8,000 establishments during the year, independently of the great number of shops that do not deal in exciseable articles; such, for example, as bakers, &c. Comparing this proposed rate of inspection with that carried out by the Excise, your Committee find that in the United Kingdom there are some 550,000 manufacturers and dealers under supervision, and that the number of Excise officers employed is about 4,000, being at the rate of 137 establishments for each officer to inspect in place of 8,000, as proposed to be inspected; and upon these it is admitted that a second call must be made before proceedings are adopted. Your Committee further find it suggested, as a part of this plan, that if adulterated goods are found in the shop of a retail dealer, and he gives up the name of the wholesale dealer from whom he bought them, he ought to be exonerated. This proviso appears to your Committee to exhibit the weakness of the whole scheme, because, if this principle is admitted, it would be manifestly unjust to deprive the wholesale dealer of the same immunity; and thus, in the case of drugs, for instance, the authorities might be ultimately referred to the merchant at Smyrna, Constantinople, or elsewhere, and all the investigation be thereby rendered fruitless.

2261 of 1856. 2295 of 1856.

4399, 4400 of 1856. 2324 of 1856.

"With regard to the suggestion of compelling a man to exhibit a placard in his window, stating that he had been convicted of adulteration, your Committee conceive that no person would do so without attempting to vindicate himself by a counter-statement, in which, most probably, he would endeavour to prove harsh and unjust treatment by the authorities; a subject which usually commands the attention and sympathies of the poorer classes, in whose neighbourhood the most frequent cases would occur, and the man might thereby be considered as a martyr, and not improbably increase his business; or he might, on the contrary, become a ruined man, a penalty not contemplated, and possibly very much out of proportion to his offence.

"After a careful consideration of the evidence adduced during their protracted sittings, your Committee are of opinion that there has been much unnecessary and groundless alarm created in respect to the extent of adulteration at present practised in regard to the principal articles of consumption. On reference to the Evidence it will be seen that many loose and vague statements, as to adulteration, were narrowed down, under examination, to cases of dilution of strength, or the admixture of inferior with the better qualities of the same article, in order to effect a reduction in the price, while a great mass of the evidence had reference to a state of things which no longer exists, one of the most important and intelligent witnesses going back as far as the year 1810 for an instance of adulteration in drugs.

1188–9 of 1855.

2204 of 1856.

"That as regards the principal articles of food and drinks, viz.:

Bread,
Flour,
Tea,
Coffee,
Sugar,
Milk,
Beer,
Spirits,
Wine,

3 & 4 Geo. 4. 6 & 7 Will. 4.

Your Committee find that there are already several most stringent and summary Acts in force. That the Act 3 & 4 Geo. 4, c. 55, imposes a penalty of 20 *l.*, or six months' imprisonment with hard labour and publication of sentence, upon the mixture of alum with bread

bread or flour, within the bills of mortality; and the 6 & 7 Will. 4, c. 37, extends the same provisions to the country, the penalty being 5 *l.* to 10 *l.*, or six months' imprisonment and publication of sentence; notwithstanding which it was proved before Your Committee, that nearly every sample of bread analysed contained alum, added for improving the colour, &c. That the same process is repeated frequently with flour, under the liability of a penalty of 5 *l.* to 20 *l.*, and publication of sentence. That the penalties for adulterating tea or coffee are also very heavy, being 100 *l.* for each offence.

"That in regard to beer, Your Committee find even heavier penalties than are imposed on the foregoing articles: the 56 Geo. 3, c. 58, imposes a summary penalty of 200 *l.* upon any brewer or retailer of beer having or receiving into his possession any drugs or substances for mixing with beer; and a penalty of 500 *l.* is imposed on any druggist selling drugs to any brewer or retailer of beer for the purpose of mixing; notwithstanding which it was proved before Your Committee, that the supply of drugs to brewers and publicans is an established trade. That it would be scarcely possible to frame more stringent laws in regard to the adulteration of spirits, and yet a large portion of the evidence shows that gin, being the article for which there is the greatest demand, is invariably adulterated.

Acts
10 Geo. 1, c. 10.
11 Geo. 1, c. 30.
17 Geo. 3, c. 29.
43 Geo. 3, c. 129.
59 Geo. 3, c. 53.

"That in regard to the almost invariable practice of using alum in the manufacture of bread, in order to meet the requirements of the public, and the conflicting chemical testimony as to its positive existence as alum, and, consequently, as to its effects on the human system after the process of baking, Your Committee refer to the following contradictory evidence:

"The principal injury to the human system from the use of alum in bread is the stringent effects it exerts, tending to produce that costiveness which is a very common complaint in large towns: witness has found crystals as large as a pea.

4389 of 1856.
2421 of 1856.
2420 of 1856.
1404 of 1856.

"In eating bread a person does not eat alum; its property is totally destroyed; and, after baking, bread in which alum had been mixed would contain, not alum, but the constituent parts, one of which, bisulphate of potash, is a very harmless agent of a purgative nature, and rather beneficial than otherwise, especially with sedentary people.

447-8 of 1856.
452–3 of 1856.
454. 456. 458 of 1856.

"Boiling heat would be sufficient to effect the dissolution of alum to its component parts.

821 of 1856.

"The heat in baking bread would melt the alum, and make the crystals effloresce. Alum will melt at a temperature of about 300 degrees, baking heat being above that.

1832 of 1856.
1833 of 1856.
1834 of 1856.

"The existing regulations with respect to the sale of coffee appear to be working very effectively for the purpose of preventing imposition in the admixture of other substances than chicory.

"That no sufficient reasons have been brought before Your Committee to induce them to recommend the adoption of any further legislation in regard to the several articles of bread, flour, tea, coffee, sugar, milk, beer, spirits, and wine; being convinced that no more stringent measures than those now in force could be adopted, without enhancing the cost of the necessaries of life, and without such an injurious, vexatious, and inquisitorial interference with trade as would be totally at variance with the more enlightened policy of all recent legislation, and such as would most materially prevent the development of the system of freedom of commerce, to establish which has of late years been the constant study and aim of the Legislature.

"That the Evidence adduced with respect to drugs, however, lead Your Committee to the conclusion that their immediate effects upon human life, whether administered by accident, or from ignorance, or fraudulently impure, place them in a different category from articles of food, and render it desirable that some further improvement should take place in regard to the mode of dispensing medicines, the public being unable to exercise the same power of discrimination as they naturally possess in reference to articles of daily food; and that therefore some additional provision may beneficially be made by the Legislature, both as to the qualifications of the persons who shall be entitled to deal in them, and also as to the means of preventing the fatal errors which appear to have occurred in administering medicines.

Motion made and Question proposed, "That the Draft Report of the Chairman be read 2°, paragraph by paragraph."—Amendment proposed, to leave out the words "the Chairman," and insert the words "Mr. Moffatt," instead thereof. Question put, "That the words 'the Chairman' stand part of the question." The Committee divided:

Ayes, 8.	No, 1.
Mr. Swift.	Mr. Moffatt.
Mr. Cowper.	
Mr. Alderman Cubitt.	
Mr. Sheridan.	
Mr. Peacocke.	
Lord Goderich.	
Mr. Kinnaird.	
Mr. Knight.	

Main question put, and agreed to.

[Adjourned till Friday next, 18th instant, at Twelve o'clock.

Veneris, 18° *die Julii*, 1856.

MEMBERS PRESENT:

Mr. SCHOLEFIELD, in the Chair.

Viscount Goderich.	Mr. Cowper.
Mr. Alderman Cubitt.	Mr. Otway.
Mr. Moffatt.	Mr. Gregson.
Mr. Swift.	Mr. Kinnaird.
Mr. Sheridan.	Mr. Villiers.

Draft Report of the Chairman read 2°, paragraph by paragraph.

Several amendments made.

Amendment proposed in page 2, at the end of the 2d paragraph, to add the following words: "But although the evidence establishes the fact that adulterations such as those now recited are in some instances constantly, and in others occasionally, practised, it was not proved (excepting, probably, in the case of bread, and of confectionery, and drugs) that effects generally injurious to the public health had resulted therefrom." (Mr. *Moffatt*), —Question put, "That those words be there added." The Committee divided:

Aye, 1.	Noes, 4.
Mr. Moffatt.	Mr. Cowper.
	Viscount Goderich.
	Mr. Alderman Cubitt.
	Mr. Kinnaird.

Paragraph amended and agreed to.

Other paragraphs read, amended, and agreed to.

Amendment proposed, in page 5, paragraph 3, to leave out from the word "it" to the end of the paragraph (Mr. *Moffatt*).—Question put "That the words proposed to be left out stand part of the paragraph." Committee divided:

Ayes, 3.	Noes, 3.
Viscount Goderich.	Mr. Alderman Cubitt.
Mr. Sheridan.	Mr. Moffatt.
Mr. Cooper.	Mr. Swift.

Whereupon the Chairman declared himself with the Noes.

Words omitted.

Question put, "That the paragraph as amended stand part of the proposed Report." The Committee divided:

Ayes, 4.	Noes, 2.
Viscount Goderich.	Mr. Moffatt.
Mr. Swift.	Mr. Alderman Cubitt.
Mr. Villiers.	
Mr. Sheridan.	

Other paragraphs read, amended, and agreed to.

Amendment proposed, in the 8th paragraph of the same page, after the word "imprisonment" to leave out the words, "in every case where pecuniary fraud" (Mr. *Moffatt*), Question put, "That the words proposed to be left out stand part of the paragraph." The Committee divided:

Ayes, 5.	Noes, 2.
Viscount Goderich.	Mr. Alderman Cubitt.
Mr. Swift.	Mr. Moffatt.
Mr. Sheridan.	
Mr. Cowper.	
Mr. Otway.	

Several other paragraphs read, amended, and agreed to.

Question, "That this be the Report of the Committee," put, and agreed to.

Ordered to Report, together with the Minutes of Evidence.

[To Report.

EXPENSES

EXPENSES OF WITNESSES.

NAME of WITNESS.	Profession or Condition.	From whence Summoned.	Number of Days absent from Home under Orders of Committee.	Expenses of Journey to London and back.	Allowance during Absence from Home.	TOTAL Expenses allowed to Witness.
				£. s. d.	£. s. d.	£. s. d.
William Emmerson - -	Manager, People's Flour Mill, Leeds.	Leeds - - -	3	2 10 –	3 3 –	5 13 –
Edward Farrand - -	Bookkeeper, Rochdale.	- - - -	3	2 13 –	1 10 –	4 3 –
Dr. Neligan - - -	Physician, Dublin	Dublin - -	3	6 10 –	9 9 –	15 19 –
Reginald Richardson -	Officer Local Board of Health.	Newton Heath, Manchester.	3	3 10 –	4 4 –	7 14 –
Peter Mackenzie - -	Editor - - -	Glasgow - -	4	10 3 6	4 4 –	14 7 6
Dr. Bingley - - -	Physician - -	Sheffield - -	3	4 10 –	9 9 –	13 19 –
					£.	51 15 6

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Memorandum.—In consequence of an error in the paging subsequent to page 152, the Evidence of the Witnesses should be referred to only under the respective *Dates* of the meeting of the Committee.

MINUTES OF EVIDENCE.

Mercurii, 27° die Februarii, 1856.

MEMBERS PRESENT.

Mr. Scholefield.	Mr. Villiers.
Mr. Cowper.	Mr. Otway.
Viscount Goderich.	Mr. Peacocke.
Mr. Gregson.	Mr. Sheridan.
Lord Claud Hamilton.	Mr. Swift.
Mr. Moffatt.	Mr. Wise.
Mr. Alderman Cubitt.	Mr. Kinnaird.

WILLIAM SCHOLEFIELD, Esq., IN THE CHAIR.

Professor *Alfred Swaine Taylor*, called in; and Examined.

Professor *A. S. Taylor.*

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1. *Chairman.*] YOU are Professor of Medical Jurisprudence and Chemistry in Guy's Hospital?—I am.

2. Have you occupied that position for a considerable number of years?—I have done so for 24 years.

3. Have you turned your attention much during that period to the question of adulteration as applicable to food or to drugs particularly?—Not specially to adulteration, though cases of that nature have come before me; my attention has been chiefly given to the admixture of poisons with articles of food, either unintentionally or wilfully; during that period, however, I have had many instances brought before me connected with the adulteration of food.

4. Will you favour the Committee with such facts as have come to your knowledge bearing upon the subject?—The first subject which I have particularly attended to, and upon which I have had some experience, is the admixture of colours in confectionery. The substance called Scheele's green, which has been already brought before the Committee by some of the witnesses, was formerly very much used, and is still used to some considerable extent, for colouring confectionery, and many cases have come before me, some in which death has been occasioned, and others in which serious illness has been occasioned by the use of it. I have a memorandum of the cases of 14 children, who all suffered on one occasion from the symptoms of poisoning by arsenic, in consequence of eating confectionery coloured with this mineral; in another case, in 1853, two children died from eating small pieces coloured with this substance.

5. You are understood to say, that this substance is still very generally in use, but not so much so as it was formerly?—Since this inquiry has been undertaken I have not observed it so much.

6. Mr. *Moffatt.*] Is that green colour used in preserved fruits and in confectionery also?—It is only used on the outside; about two or three grains of it would be sufficient to destroy life. Besides being used for confectionery, it is very much used in the arts, and sold as a pigment for common purposes. Indeed, there appears to be great ignorance about its dangerous properties. In the spring of 1854, I found that a loaf which was put upon my breakfast table, contained at the bottom of the crust a quantity of this mineral, and suspecting

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pecting from its appearance what was its nature, I made an immediate examination of it, and found Scheele's green over the bottom of the loaf in various parts. That alarmed me. I examined the toast which was made, and there were particles of Scheele's green about it. I knew there was no compound of that kind in use in my house, and I immediately went off in a cab to the baker to see him upon the subject, and on entering the shop I at once saw the cause; he had had the whole of his shelves painted with this rich green colour, and there were than more 100 loaves, possibly there were 200, placed upon those shelves, and upon examining the bottom of the loaves, I found that the shelves having been recently painted, the bread being put upon them warm, a quantity of mineral poison had adhered to it. I explained to him the great danger of it, and warned him against sending out any of the bread. He was quite ignorant of the nature of the substance, and he immediately had the mischief remedied. This kind of paint is sometimes used on greengrocers' stalls, on which acid fruits are exposed. I mention this to show that accidents may occur, and poison get into a person's body without his being aware of the mode of its being introduced.

7. *Chairman.*] Would there be any difficulty in substituting a harmless green for that dangerous substance?—I think not any difficulty at all. It is, however, a particularly rich and bright green, so that it is rather sought after by colourists.

8. Other colouring matter might be found of a harmless character?—Yes. I should observe that this substance, Scheele's green, is used or has been used under the name of extract of spinach. So much ignorance existed about the nature of it that it was supposed to be a vegetable extract. There was a gentleman poisoned at Northampton, about seven years ago, whose death led to a trial, in consequence of the confectioner having coloured some sugar in the form of cucumbers with this substance; it is a substance the general use of which ought, in my opinion, to be prevented. With respect to the blues, I have not found anything injurious about them. The blue colour used for confectionery, besides Prussian blue, has been chiefly ultramarine; but with regard to blues, Prussian blue itself is not a substance which we regard as a poison. With respect to reds, I have occasionally found vermillion and red lead used for colouring confectionery; both of those are noxious. With respect to yellows, I have found oxide of lead and chromate of lead. Another substance, which partly led to the death of a child in 1853, was what we call orpiment, which had been used for colouring the outside of some sugar sweetmeat, and the child accidentally picked it up in the street; it was the sulphuret of arsenic, of a bright golden yellow colour; it had been used with Scheele's green to colour the confectionery, and that child died from the effect of it. I believe, with regard to all those colours, substitutes might be found for them which would be perfectly innocent. Turmeric might be used as a yellow, and cochineal and madder as pinks. It is in a great measure from ignorance of their dangerous nature that the others are used.

9. Would those other colouring matters be more costly?—I do not think there would be any particular difference in that respect.

10. Are you aware that in any country it is the habit of the Government to forbid the use of certain colours for this purpose?—I am aware that several orders have been issued in France at different periods, and that they have been confirmed up to a late period; some are dated in 1831, 1833, and 1843, and in them the French Government have strictly prohibited the use of the substances I have mentioned as well as others.

11. Do you know whether that has been done by direct legislation, or is it a municipal regulation?—I think it is a municipal regulation.

12. It is an order issued on the part of the police, is not it?—I think it is.

13. Viscount *Goderich.*] Has that order reference only to Paris?—It has reference to France generally. I can give the Committee one of the latest French orders, which was issued in this form: all mineral colours were prohibited except Prussian blue and ultramarine; this, I should say, was dated 22d September 1841, and was confirmed by another ordinance in 1853. Vegetable colours are allowed except gamboge and the aconitum napellus or monkshood. The second point referred to the wrapping of confectionery in paper coloured by mineral substances; that was strictly prohibited. The use of mineral substances for colouring paper to be applied in wrapping confectionery was prohibited,

prohibited, except Prussian blue and ultramarine. Thirdly, the paper wrappers were always compelled to be issued with the name and address, and no metallic substances were allowed to be used. Then there was an order for the annual inspection, and certain articles prohibited are enumerated; not only the substances themselves are prohibited, but any mixture of them. The penalty imposed was from six months to two years' imprisonment, and a fine of from 16 to 600 francs. The exposure for sale was also penal.

14. *Chairman.*] Is not essential oil of almonds very largely used for flavouring sweetmeats and confectionery?—It is very largely sold and used; it is extracted by distilling bitter almond cake with water. I should observe, that it is a most powerful poison, containing from six to 12 per cent. of prussic acid, and it is rather variable in strength, which makes it still more dangerous in the mode in which it is used by confectioners. The poisonous oil is used by perfumers for giving an odour to soaps and cosmetics, and liquids for the hair. I have not heard of an accident from its use in cosmetics, but it is a very powerful poison in itself; 20 drops, or rather less than half a teaspoonful of that oil, killed a woman 49 years of age in half an hour. Many suicides have occurred, as well as fatal accidents, from the easy way in which it is sold. Its flavour and odour lead persons to taste it, and that tasting, I need hardly say, may be a very serious thing. In fact it is kept and sold in the shops in a most dangerous manner.

15. Do they sell it labelled "poison"?—I have not generally seen it so sold; lately I have seen it to be more so, but as a rule I have not observed it. There is a compound, which is more generally known, which contains about one drachm of the oil to seven drachms of spirit; it is called almond flavour, and is a solution of the oil in spirits of wine; its strength varies very much, of course, according to the strength of the oil. I have published an account of several fatal cases from the accidental or the intentional swallowing of that liquid. In March 1843 half an ounce killed a woman aged 39 in half an hour. The strength of that flavour must depend, of course, upon the strength of the oil from which it is made. In one case a large spoonful might not prove fatal, and in another a much smaller quantity might. The point to which I particularly wish to call the attention of the Committee is the use of it by cooks and others. As there is no sort of measurement of the strength of the original oil when it is made up, it may give rise to accidents, and it has sometimes done so. I have heard of children being made ill, and of drowsiness and other symptoms being brought on by the use of an undue quantity of that substance. It is constantly used for flavouring puddings and similar articles. If the pudding or custard is heated, the acid may be distilled away, but if it is used cold there is always danger of a dose of prussic acid being taken.

16. Is there no fixed standard of strength whatever?—None whatever; it varies from six to 12 per cent.; I think the sale of that poisonous oil and flavour, more especially by confectioners, should be prohibited. Druggists I believe are more cautious in vending it, knowing the effects of it, but confectioners for the most part are ignorant of the effects, and therefore they sell it in any quantity. In fact, cooks have been known to use it secretly when it has been prohibited, and have pretended that they have given the flavour by means of bay leaves, when to save themselves trouble they have used this substance.

17. Is there any other means of giving the flavour which is peculiar to oil of almonds?—Yes. The prussic acid may be separated from the oil. It is said that the oil even so freed is not devoid of danger; but if the prussic acid were distilled, a quantity might be used for flavouring which would not interfere with the general use of it.

18. Mr. *Moffatt.*] It is not the prussic acid which gives the peculiar flavour to this substance?—It is not; the flavour and the odour are chiefly owing to the oil independently of the acid. So that there is no excuse for selling prussic acid but laziness and ignorance.

19. Would the expense be greatly increased by separating the prussic acid?—The article would be made a little more expensive, but not materially so.

20. How is that oil obtained?—It is obtained by distilling what is called the pulp of the bitter almonds with water. The prussic acid does not exist in the almond itself, but it is the result of the action of the water upon some of the elements of the almond during the process of distillation. The oil is at the

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same time produced, and comes over with it; but by distillation with a little oxide of mercury, or even oxide of iron, it is possible to separate the prussic acid, and the oil will pass away, and it might be used to give a flavour in that state.

21. Is the oil manufactured in this country, or imported?—Some of it is made in England.

22. Mr. *Peacocke.*] Is this essential oil sold by confectioners as essential oil?—They sell generally what they call almond flavour.

23. It is not sold as essential oil of almonds, is it?—No; it is sold under the name of essence of peach kernels.

24. It is the case with chemists, is not it, that they are bound to mark all bottles which they send out containing poison with the word "poison"?—They ought to do so, but there is no penalty, I believe, for their not doing it. All respectable chemists, however, take great pains to prevent danger; but there is so much difference of opinion as to what is poison, and what is not, that sometimes a poisonous substance may go out which is unlabelled.

25. *Chairman.*] Are the various essences of pear drops and peach drops, and others, flavoured with this substance?—No; there are various other flavours in use.

26. Do they all contain the element of prussic acid?—No; some of those drops are noxious, though they contain no prussic acid. Other compounds have been lately made which imitate the flavour of Jargonelle pear and Ribstone pippin; those are compounds of fusel oil, which is a noxious oil obtained from the distillation of grain, and by a chemical process the flavour can be imitated as well as the odour to a remarkable degree. I have heard that some of the Jargonelle pear drops and the Ribstone pippin drops have produced drowsiness and stupor in children. It is an imposition on the public to sell in this way a chemically flavoured substance under another name.

27. Mr. *Sheridan.*] From whom do the pastrycooks obtain this essence of peach, and similar essences?—They buy them of the manufacturers. I believe they buy them in the form of oil, and mix them for themselves.

28. Do they ever purchase the oil from apothecaries?—They may buy it at the druggists. I have had occasion, among other matters, to examine hair dyes. I do not know whether those come under the observation of the Committee, but many of them contain oxide of lead, which is a noxious substance. Many of those hair dyes are compounds of oxide of lead and lime, and when mixed up in a paste and put on the hair, the effect of the sulphur in the hair by acting on the lead, produces a darkened colour of the hair. It is thus the hair is darkened; but during this time absorption of the oxide of lead often goes on; and I knew a case in which a lady suffered from complete paralysis and distortion of the neck in consequence of having used this hair dye for some time. One of her friends seized a portion of it, and sent it to me for analysis, and it contained 80 per cent. of oxide of lead. I advised that it should be left off, and she perfectly recovered. That, however, is a matter of option; it is only desirable that persons should know what is in those substances. With regard to lead again, there are many articles of common wear, which are sold to poor people, which are very badly glazed, so that the acids of the fat dissolve the glaze; dripping will do so, and I have known colic produced as the result of that. That, however, is a question of manufacture, but it is one instance of the mode in which lead may get into the system. I have had to examine cases in which preserved fruits have been kept in glass bottles with pewter stoppers. A few years ago there was a patent about to be taken out, but I gave the opinion that it was a highly dangerous proceeding, and since then it has been withdrawn. The presence of salts of copper in preserved fruits has been already brought before the Committee. I have had one or two cases of this kind of impregnation of preserved fruits, in which symptoms of poisoning were produced. One instance, I bear in mind, was a case in which a cook purchased from a druggist's a quantity of sulphate of copper, and boiled it up with gooseberries, to give them a rich green colour. This was at one time used in pickles, but I believe now there is a general desire, on the part of picklemakers, to produce them of the proper and natural colour. Then, also, I have examined what Dr. Hassall and Dr. Normandy have examined, namely, the state of the anchovies sold in London. They

are, or rather they were, very often coloured with red paint, containing oxide of iron; there was a very large quantity of oxide of iron used.

29. Is that a dangerous substance?—No. By some dealers it was mixed to a large extent. It would seem, however, as if the public prefer their anchovies thus coloured, for I think there is a great demand for the red anchovy.

30. Mr. *Moffatt.*] Is oxide of iron a noxious substance?—It is not.

31. Viscount *Goderich.*] Are anchovies ever red without the use of oxide of iron?—I have seen them in Italy, where they use no oxide of iron, of a reddish brown colour. On being put into salt and brought here, they become a little more brown. I am in the habit of using them without the red colouring matter, and they are very good. In the old mode of colouring, it was possible, under the microscope, to see the quantity of oxide of iron.

32. Mr. *Cowper.*] Is there not a very different kind of fish sent from Holland, and coloured on purpose to resemble anchovies here?—I think that is the case; they are not genuine anchovies, but they are made to look like anchovies; and you might always suspect that, where so much colour is used.

33. You do not think that the anchovies you speak of, which come from Italy, are coloured?—No; except it may be a quantity which, being damaged, has been put into a jar with this oxide of iron.

34. In fact it is not done to please so much the fancy of the public, as in order to substitute a different article?—Yes; and I will also add to that, that genuine anchovies present an objectionable appearance by long keeping, and having lost the colour they once possessed, it is restored to them by this process.

35. *Chairman.*] Have you made any observations upon the article of bread?—Yes. I should state that I have not purposely sought these instances, but they have come before me as matters of inquiry. I have had to examine many samples, chiefly of the best quality of bread; in respect to that, I must say that my results are rather different from those which I have heard given in evidence. I have not found the quantity of alum which has been described; I have found salt and phosphate of lime, with a little carbonate of lime; the salt being added to the bread, and the phosphate and carbonate of lime being earthy materials, which are always more or less found in grain; I have not found them in bread in any undue proportions. There was only one case in which it appeared to me there was some trace of alum. I suppose I have examined bread once or twice a year, during the last 10 or 12 years, and I have not found alum in it; I have found sulphate of lime.

36. Have you ever examined bread which was purchased in other than the better parts of the town?—I have not; I have examined chiefly that which is sold at the West End of London; I have examined my own bread in this way. I think it is not unlikely that in the worst districts alum may be mixed with flour, and incorporated with bread of a cheap kind.

37. Do you believe the admixture of alum with bread would be very injurious?—Not in small quantities; but it would in the large quantities I have heard described; taken day by day its effect would be to produce constipation, or rather irritation of the bowels. Most of these things ought to be looked at in this aspect. It is not generally the case that there is enough taken of the deleterious substance to produce injury which is observed at the time, but it is the introduction day by day of these substances into the body which does the mischief. I have also examined flour on several occasions where it has been suspected to contain chalk and other substances; but, generally speaking, I have found the flour which I have had submitted to me which was suspected to be wrong, to be good; I have not found a greater guantity of ash in it than flour ought to contain. All those substances contain more or less ash. I have lately had to examine some flour from Essex, and 100 grains of the best flour yielded only one half grain per cent. of mineral matter, and the household sixth-tenths of a grain; in examining the ash I found it to consist of carbonate of lime, phosphate of lime, and a small quantity of oxide of iron, there being no alum or any other mineral. That is the flour which I myself use, and have used for some time; it is perfectly genuine and good flour.

38. Do you know anything of the baking powders, as they are called?—Yes; they are compounds chiefly of carbonate of soda and tartaric acid.

39. Are they extensively used?—Yes, they are by some; they make what is

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called the digestive bread; but of course that is a mere matter of option with people who take such bread.

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40. Is there any harm arising from the use of those powders?—The effect of the constant taking of tartrate of soda will be to act as a gentle laxative; it is a chemical imitation of fermentation; if the baking powder is mixed with flour and kneaded, effervesence succeeds and extends the dough; but the salt which is formed, the tartrate of soda, remains there; the effect is, that there is a gentle action upon the bowels; there is not the loss in fermentation, and it is used by preference. There is nothing in it I should say injurious to those who like that kind of bread. I have also examined the unfermented bread made with carbonate of soda and muriatic acid; on that point I would observe that a great deal of common muriatic acid which is sold for this purpose contains arsenic; if that kind of bread be used there ought to be some precaution taken that the acid sold is pure and not poisonous.

41. Mr. *Moffatt.*] In what proportion have you found that acid in a four-pound loaf?—Carbonate of soda is mixed with the flour, and the proportion of acid used ought to be just enough to be neutralized by the alkali, so that there should be no free acid; the effect of kneading in the muriatic acid with the flour and carbonate of soda is to produce the effervescence that I have described, and distend the dough; if the proportions have been rightly hit off we shall find that the bread will only contain common salt (muriate of soda), but if there were any arsenic mixed with that acid it will remain there, even though in small quantities. I have generally found that bread alkaline, and not acid, showing that a little excess of soda had been used.

42. Mr. *Peacocke.*] You said that your experiments have been generally made upon the bread sent to you for your own use?—Yes, or sent to me by friends, and also by gentlemen who fancied that they were made ill by the bread they used. I have often found that suspicion to be groundless. I have dealt with my own baker for 12 years.

43. Mr. *Otway.*] As regards the purity of flour, have you made many experiments upon it?—Not many; I do not think I have examined above six samples of flour. I have not sought out these matters purposely, but I have taken them as they came to me.

44. In the instance, however, to which you allude, you found the flour to be without any adulteration?—Quite so; and that analysis was made when the person sending the flour was not at all aware that it would be analysed.

45. A miller having a large business could derive a great profit from adulterating the flour with alum, could not he?—I think the object of putting in the alum would be rather to meet the wish of the baker; he might derive a considerable profit from it. I think, if I might be allowed to express an opinion, there may be a great deal of adulteration in respect to the introduction of bean flour and pea flour and lentil flour, which it would be difficult for a chemist to detect.

46. Mr. *Moffatt.*] Is there anything noxious in the character of that flour?—No.

47. I find it stated by one witness, "I did actually find in the bread alum, which was so badly and carelessly mixed as to be found in crystals the size of a large pea." Do you think that probable?—The gentleman who makes that statement says as a fact that he saw it; I never saw anything like it. I should imagine that the alum would be mixed with the flour and heated, and then it would be prevented, by the mere effect of baking, from re-crystalizing.

48. Is not it an ascertained fact in chemistry that alum when subjected to heat does pulverize?—It does; it gives off its water; the crystal is destroyed. I should think, therefore, that the crystal spoken of must have come there by some accident afterwards; the alum loses its water and falls to a white powder.

49. *Chairman.*] You have been asked whether you think that pea flour, or lentil flour, or bean flour, as mixed with wheat flour, is noxious; you say it is not; but I presume you would not imply by that that the mixture of pea and lentil flour is a justifiable thing?—Certainly not; I am rather stating here what has not come within my own observation as a matter of detection; it is what I hear as a matter of general information, that lentils, largely imported from the Levant, Grano-Turco as the Italians call it, are very much worked up in flour. A chemist would not discover that in burning the flour; he would only discover

discover mineral matter; it would require a microscope to make out any impurity of that kind.

50. Have you made any observations upon yeast?—Yes; I have examined ordinary yeast and German yeast, but have not found anything of an injurious nature in either of them. German yeast appears to be pure yeast, inspissated and dried to prevent putrefaction, and unless it has putrefied, or is decomposed, there is no danger in the use of it. With respect to porter and ale, I have also examined them at various times, and I believe there is a great amount of adulteration carried on with regard to them, but not by the large brewers; I think it is done by the retail dealers, from what I have observed. Quassia, gentian, and many other bitter substances, and cocculus indicus, are much used. I was obliged to give up the retail London porter some years ago, in consequence of my own feelings as to the effects of cocculus indicus.

51. What are the effects of the mixture of cocculus indicus in beer?—They are of a very peculiar kind; not exactly amounting to intoxication, but they produce a kind of loss of power or tremulousness; a waking dreaminess, if I may so call it, as if you were conscious of things about you, with no power to move or exert yourself in any way. It seems to affect the nervous and muscular systems in that way.

52. Mr. *Moffatt.*] Have you analysed any porter for the purpose of seeing if it contains that drug?—We have no power to detect small quantities of cocculus indicus. I am told that the composition is put into porter in a bag and allowed to soak. In this kind of mixture a variety of things together most effectually prevents ordinary methods of detection.

53. Is it your impression that that practice is resorted to by the brewers?—Not by the brewers; I think it is by the publicans. They put in water and salt, and then in consequence of the reduction of the strength of the beer by the addition of the water, they give it an apparent intoxicating power by these drugs. I am sure by the taste, as well as the effects, that it is carried on to a very large extent.

54. And that is injurious to the health of the consumers?—It is undoubtedly if they should take it day by day. A case of the kind was referred to me by a surgeon practising in Parliament-street. There was no possibility of saying certainly that cocculus indicus was in the beer; but there was a large amount of bitter mixed with it, and a large amount of sugar, and from his description, and the fact that all who had it from a particular public-house complained of the same symptoms, I have no doubt in my own mind that there was a drugging of that liquid. At the same time, it was one that we could not establish by direct proof.

55. Mr. *Cowper.*] Have you tested the effects of bottled beer as well as draught beer?—Yes, I have, both in reference to London and Dublin stout. I have not found any drugging when it has come from a good source. There has been bitterness, but nothing of an unwholesome nature.

56. To what would you attribute the superabundant bitterness?—Partly to a large quantity of caramel bitter, something in the nature of burnt sugar, and I believe in some instances to quassia.

57. Have you ever detected any strychnia?—No.

58. Have you tested for it?—I have occasionally. I do not think strychnia is put into beer. There are other bitters which can be so easily substituted for strychnia, which are perfectly safe, and which give a bitterness more palatable, for the bitter of strychnia is a most disagreeable bitter, that I do not see that any motive exists, independently of its non-detection by those who have sought for it.

59. Mr. *Peacocke.*] Quassia is not deleterious, is it?—No; it is a good tonic, only one objects to have medicines prescribed under the name of porter.

60. You said just now that beer was not adulterated by the brewers, but by the publicans; have you found any difference between those public-houses which are under the control of the great brewers, and others?—I have not made that comparison; but taking porter from such places as Barclay & Perkins, or Calvert's brewery, as I have had an opportunity of judging of both of them, I find nothing objectionable about the beer; but I have made no comparison between such beer and beer sold in public-houses under the control of brewers. I think, generally speaking, the porter sold in London is very much adulterated.

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61. Mr. *Moffatt.*] Have you given any attention to the ale sold in London?—Yes.

62. Do the same remarks apply to ale?—I think with regard to all the ordinary kinds of bitter ales, they are all bittered by something besides hops.

63. Mr. *Swift.*] Are you aware whether the quantity of cocculus indicus imported into this country in the course of the last few years has materially increased?—I am not aware of that. I should say it has been for years largely imported, and there is no honest or fair use of it, that I am aware of. It is not used in medicine, and the only use of it I know is as a poison to catch fish.

64. Do you know whether the price has been considerably advanced?—No.

65. Viscount *Goderich.*] It is not used in any kind of lawful manufacture, is it, that you are aware of?—I am not aware that it is.

66. Mr. *Sheridan.*] Would quassia be the cheapest ingredient to introduce to impart a bitterness to beer?—I think it would; quassia where it is used gives a very strong bitter; but at the same time, gentian and caramel would do so. The bitter of quassia is a rough sort of bitter; gentian and caramel would give more warmth to the bitter, and make it more palatable; grains of paradise and coriander seed and other materials are also used; many of them are not injurious, but they conceal the fact that the beer has been greatly lowered by the addition of water.

67. *Chairman.*] What is the object of putting in cocculus indicus?—The way I would explain it is this: supposing a barrel of strong beer is sold to a publican; he wishes to increase that by diluting it with water; he lowers the strength of it in alcohol; therefore he must put in some substitute to increase its apparent intoxicating qualities.

68. Mr. *Peacocke.*] You said just now that the only other use to which cocculus indicus is applied, is to catch fish; if any person eats those fish, will not it be very deleterious to him?—Not very deleterious; I am not aware of any accident having occurred from that cause; the quantity that would bring fish to the surface of the water would not be sufficient to be injurious; besides, we should always find it in the taste if there were a dangerous quantity.

69. Viscount *Goderich.*] You do not suppose that it is extensively used for the purpose of catching fish, do you?—No; I have heard that poachers so catch fish; I cannot conceive that cocculus indicus is imported for any fair and lawful purpose.

70. Mr. *Swift.*] You are not aware that it is used for any other purpose?—I am not.

71. *Chairman.*] Have you made any examination of port wines?—Yes; I have had some experience of that kind on the part of the London Docks Company. It appears that port wine is sometimes manufactured out of bad clarets and bad Italian red wines, bought at 7 *d.* a gallon; and then, by the addition of a mixture of geropiga, dried extract of elderberry juice, Lisbon grapes, brown sugar, brandy, bitter almonds, and logwood, a mixture is made up which is called London port.

72. Viscount *Goderich.*] Are any of those ingredients injurious, in your opinion?—None of them. But the wine I am speaking of was the subject of a trial at the Exchequer sittings in Guildhall last summer, in a case in which the London Dock Company had been subject to very great frauds in consequence of the substitution of good port wine for this bad material. That stuff was bought at 7 *d.* a gallon, and this wine was afterwards sold at from 12 *s.* to 15 *s.* a gallon, and the plaintiff in that case said he had a chemical mixture by which he could turn sour claret into very full-bodied port, and this was the substance which was supposed to be used.

73. Mr. *Peacocke.*] Have you detected those ingredients in English port wine by analysis?—I have detected brown sugar, and logwood, and brandy. I am taking this as a matter of evidence, which was given upon the trial; it came out upon the trial what was the nature of this mixture.

74. Mr. *Cowper.*] Is geropiga imported from Portugal?—It is, as well as made in this country; and some of it is added to the wine even in Portugal.

75. Is the manufacture of geropiga carried on in this country?—I should suppose it is.

76. Mr. *Moffatt.*] Are you not aware that geropiga is added to almost all the wine of Oporto?—Yes, or brandy is, certainly.

77. Lord *C. Hamilton.*] Do you believe that when the cheap Italian wine comes in here it pays duty as wine?—No; this was what they called damaged wine, which the Dock Company, after it has been kept a certain time, sell at a low rate to make vinegar; it came out in this case that publicans bought it at 7 *d.* a gallon, made the mixture I have referred to, and sold it at from 12 *s.* to 15 *s.* a gallon.

78. If a person were medicinally ordered to drink port wine this mixture would not produce any of the effects intended by his medical adviser?—No; it would be an astringent tonic mixture, and not good port wine.

79. Mr. *Swift.*] Would it be injurious to health?—No; there is nothing there that I can describe as injurious to health.

80. *Chairman.*] Sour claret itself would not be a very wholesome beverage, would it?—No; but they neutralise that by some alkali. With respect to spirits, I have been consulted on them, and I believe that ordinary gin is much adulterated. I once had an application made to me on the part of a person to suggest some chemical ingredient to produce what is called the creaming of gin; he wished to know how much potash would do it. I declined to have anything to do with the matter, but it satisfied me that the system is carried on to a great extent.

81. Are you aware what the mixture is which is put into gin?—I have not made any special analysis to ascertain; acids, I believe, are used; but I am unable to give any further information as to the nature of the ingredients employed.

82. *Chairman.*] Have you not some evidence to give on the subject of London milk?—I have found no adulteration in London milk which we can speak of, except water.

83. Do you find that to abound?—Occasionally so. I have examined a great many samples; they differ a great deal in the amount of cream, and there is no doubt the milk is a little lowered with water; but I have not found anything objectionable, nor have I found in the cream those objectionable substances which have been mentioned; I believe occasionally flour is used, and the material is coloured a little with annatto, in order to give it a yellowish, creamy appearance; but I have not found anything of an injurious nature.

84. Have you turned your attention to coffee?—Yes, to chicory and coffee, both.

85. What is the result of your investigations?—I was consulted by the Government in 1853, along with Dr. Carpenter, in reference to the sale of coffee mixed with chicory, and the power of detecting the adulteration. We came to the conclusions which I may briefly state to the Committee. There was nothing in chicory which could affect health; we made every inquiry upon that point that was possible, and in certain proportions we found it was actually preferred by the consumers to coffee alone; that was the result of our inquiry; and further, we ascertained that there were proportions in which it might be used without materially affecting the qualities of the coffee, but when it came to be anything like 45 or 50 per cent. it gave a flavour which persons would detect, and many consider disagreeably bitter. These (*producing the same*) are some specimens which I prepared last year for the Committee, for the purpose of giving evidence with respect to the mixture of chicory with coffee. One of them is genuine coffee, one is genuine chicory, and the third a mixture of the two. The tendency of chicory being sold separately is to pass into a solid cake, which is owing to its consisting chiefly of burnt sugar. The analysis of a sample of chicory gave these results: solid part 22 per cent, and liquid or watery part 78 per cent. The solid part consisted of grape sugar, with a bitter principle, 14·28; insoluble fibre 5; mineral matter, consisting of carbonate of potash, common salt, phosphate of lime, and silica with a trace of iron, 2·72; so that chicory appears to be a root which contains a quantity of saccharine matter and a bitter principle, and when roasted, that saccharine matter being burnt, like burnt sugar gives a strong colour to any infusion, and the bitter principle at the same time is liked by many persons who thus take it. We found that up to 10 per cent. it was not very readily discovered by the flavour, but when it went beyond that it could easily be discovered. It was detected by the microscope and by chemistry in almost any per centage.

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86. Lord *C. Hamilton.*] Does the chicory assume this form of cake unless it has been rendered moist?—It does so spontaneously, by imbibing the moisture of the atmosphere.

87. You stated that you found a preference on the part of consumers for the mixture; was that exhibited when they had obtained pure coffee by their asking for chicory to mix with it?—Dr. Carpenter procured that evidence from some large wholesale houses in London and in Edinburgh. Dr. Carpenter found there was a great demand for a mixture of chicory and coffee in certain proportions, in preference to coffee. For my own part, I prefer coffee without chicory to any admixture of the two. The proportions Dr. Carpenter found on inquiry to be preferred were 10 ounces of coffee to 6 ounces of chicory; that we fixed on as the maximum admixture to be allowed by the law. The following questions were put to Dr. Carpenter and myself: "Whether chicory should be allowed to be sold mixed with coffee (ground with it) or in the unmixed state? Reasons for either or both views? If thus sold, can the proportion be limited in which the two bodies are mixed?" Our reply was as follows: "The grinding of the coffee berry and dried chicory root in the same mill ensures the most perfect mixture of the two powders. The sale of it in this state undoubtedly saves trouble to the public; and, for reasons which will be entered into hereafter, may enable the vendor to supply a better quality of coffee at a lower price. When chicory powder is sold in a separate state its qualities are, to a certain extent, affected by the rapid and abundant absorption of moisture. In order to retain it in a pulverulent form, it should be sold in tinfoil or in glass bottles; this adds to the expense of the article, and would render it inconvenient for use among the poor. On the other hand, we feel bound to state that when the chicory and coffee are allowed to be ground together, and sold in the mixed state, although a better keeping and cheaper article may thus be afforded to the public by honest dealers, there is nothing to prevent a dishonest man from mixing a very large proportion of chicory powder, say 75 per cent., with coffee, and charging a high coffee price. We know of no method by which the proportions of chicory and coffee can be limited if the sale of the mixture be allowed. It must depend on the conscientiousness of dealers and the discrimination of the public. We have the evidence of highly respectable dealers to the fact that when the permission to sell the mixture existed, if the proportions went beyond half and half, the poorest people complained, and nothing but necessity would ever induce persons to use chicory alone. The same dealers inform us that previous to the late Treasury order they sold to country dealers a great deal of ground mixed coffee at 10 *d.*, both wholesale and retail. It was composed of 10 oz. good sweet coffee, costing 6 ½ *d.*, and 6 oz. of English chicory, costing 1 *d.* This was found to keep perfectly well without caking. It was sold to retailers at 8 ½ *d.* per lb., and by them to the public at 10 *d.* We have made trials of the following mixtures, using powdered chicory as sold at 6 *d.* per lb. (packed in tinfoil), and Ceylon coffee at 1 *s.* 4 *d.* per lb.

	Chicory.	Coffee.
A.	1	1
B.	1	2
C.	1	3
D.	1	8

In A. B. C. the peculiar bitter of chicory was quite perceptible to the taste, especially in A. In D., but for the knowledge that it contained chicory, we should not have discovered it by the taste. It is obvious that there should be a difference in the retail price of such mixtures as A. B. and C., but we know of no method by which such a regulation can be enforced. It is easy enough, by the aid of chemistry and the microscope, to discover the presence of chicory in coffee, or of coffee in chicory, when the latter is fraudulently sold in the entire state as a mixture; but it is not possible by any process known to us to determine the proportions in which the two are mixed. The public can only be protected in such a case by their taste. The admixture of 50 per cent. of chicory would be disagreeable to most persons, and if it were considered advisable to impose any restrictions on the proportions, we would fix on the maximum admixture to be allowed by law as that above quoted from dealers who

who have found a fair sale for the mixture, namely, 10 ounces of coffee to six ounces of chicory.

88–9. Did the dealers, in selling this mixture, state that it was a mixture, or did they only sell an article they called coffee at a cheap rate?—I believe before this Report was issued it was very much the custom to sell that mixture without stating that it was a mixture. Our Report led to an alteration in that respect on the part of the Government. We reported that within certain limits the mixture no doubt might be fairly sold, not being injurious to health, and being actually preferred by many persons, according to the evidence before us; but that the party purchasing should always be made fully aware of what he was buying.

90. How did the public show their preference for this mixture; did they say, "We prefer the flavour, and wish to have chicory mixed with the coffee"?—It was owing to this: it was possible to sell at 1 *s.* a lb. a better kind of coffee with a greater admixture of chicory than if they had bought the coffee separately without chicory; the latter would have been a poorer and worse kind of coffee; so that Messrs. Law, of Edinburgh, and some others, of whom we made particular inquiries, said they could afford to let poor people have a certain amount of very good coffee mixed with chicory at the same price at which they could sell them indifferent coffee.

91. That only tends to prove that they preferred the article they got, which was an admixture of a superior quality of coffee with chicory, to an inferior quality of coffee: can that show that the public, when they ask for coffee, like getting a mixed article?—No; and I think the mixture ought never to have been sold without their having had notice that there was chicory with it.

92. Mr. *Otway.*] Taking for granted that the vendors of this spurious article were animated by the desire you suppose, of giving a better coffee to the public, have you any reason to believe that the desire was carried into effect, and that in the mixed article the public really obtained a better coffee than they would otherwise have done?—Of course we could only take the information we received; we made every inquiry we could, to obtain a knowledge upon that point. I cannot say that they invariably sold that which they professed to do.

93. Mr. *Swift.*] You are yourself a drinker of pure coffee?—Yes, without chicory.

94. And you have drunk, of course, the mixture?—Yes.

95. Do not you think the flavour of coffee is very much improved by the introduction of chicory?—No, I do not; so that I avoid taking it.

96. But you think the public generally approve of the mixture?—I know that many of my friends have frequently contended with me that it was a very great improvement; I decidedly dissent from that. At the same time, I do not wish to interfere with other people's judgments. I think the bitter of chicory is very disagreeable.

97. But you do not think the admixture of the quantity here stated is injurious to health?—No.

98. Mr. *Moffatt.*] Are you aware whether it is the practice to mix chicory with coffee in France?—Universally, I believe, and in Belgium.

99 Coffee is much more largely used in France than in England?—Yes.

100. Lord *C. Hamilton.*] Are you aware that in France they do not often sell coffee in powder; you commonly see persons roasting their own coffee?—Yes.

101. Does not it follow that they mix the chicory themselves knowingly?—Yes.

102. That surely is a very different practice from asking for the coffee and having it mixed, not according to the proportions you suggest, but according to the peculiar interests of the vendor?—Yes.

103. You have stated that you should not like to have it sold, except in certain proportions you have named?—Certainly; not beyond the proportion of chicory mentioned in the Report.

104. You must be aware that before the late stir was made, and at a time when some people were saying that it was a great boon to the public to allow chicory to be mixed with coffee, the admixture was to the extent of 70 or 80 per cent.?—I have not seen such a mixture myself.

105. Have you heard that fact stated upon evidence which you thought credible?—Yes; I have no reason to doubt that it was the fact, from what was stated. In reference to our examination, we sent out on one occasion into the

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Strand and asked for coffee in a great many shops; in some of those cases there was chicory mixed with it, but in others we obtained genuine coffee; in fact, there was a very loose practice altogether.

106. *Chairman.*] What is the largest amount of adulteration which you yourself recollect to have detected?—As far as I can judge, I do not think I have ever met with a sample above 50 per cent.

107. Lord *C. Hamilton.*] How would you imagine it possible, if once you allow coffee to be so largely mixed with chicory, to obtain a sufficient security for the humbler classes?—It would be a very great difficulty, and it has always been so felt. I do not think we can make any nice distinction; we can only take them upon a large scale. It would be very difficult, for instance, to make a distinction between 20 and 25 per cent. We have not that nice means of distinguishing the proportions, and as to the power of mixing large quantities of chicory with coffee, we felt there was a difficulty. We saw no means of preventing the practice from being carried on to a larger extent than the law might permit.

108. Would not the inconvenience to the public of being subject to that fraud be greater than any convenience which might arise from relieving them of the trouble of buying the chicory and the coffee separately?—I have always understood from inquiry, that most persons would rather not have the trouble of mixing for themselves, but would prefer the mixture made for them.

109. But are you aware that in France the people grind their own coffee, and mix for themselves?—Certainly.

110. Mr. *Moffatt.*] You have stated that there is no safe test in regard to the quantity of chicory which may be mixed with the coffee; is not there this safe test, the taste of the buyer?—That is a very great test. I should say where the quantity of chicory amounted to 50 per cent., it would become decidedly disagreeable.

111. There is no Act of Parliament compelling a man to buy his coffee roasted, is there?—No.

112. If the coffee he buys at a shop does not please him he may go to another shop?—Yes. I am bound to say that I have had samples purchased as coffee since the order was issued, and I have not found any chicory mixed with them.

113. *Chairman.*] When you have asked for pure coffee?—Yes, when I have sent for it.

114. Lord *C. Hamilton.*] You say the taste of the purchaser would be a good test; is not it the case, even with the best coffee, that much of the flavour depends upon how it is made?—That is very true.

115. Mr. *Peacocke.*] Have you analysed coffee purchased in poor districts?—I have not.

116. Can you say generally, or not, whether the articles are more adulterated in the poorer districts?—I cannot; on the occasion of this inquiry we procured a great many samples, and we found, without reference to districts, there was a great mixture of chicory with the coffee.

117. Do you think other articles besides coffee are more adulterated in poorer districts?—I cannot say from actual experience.

118. *Chairman.*] Are you to be understood to say, that if the Government continued this plan of allowing the admixture of coffee and chicory it would be desirable to name the maximum quantity of chicory which should be allowed?—I think it would. The only other protection to the purchaser would be the taste.

119. Lord *C. Hamilton.*] The maximum you recommended was six pounds of chicory to 10 of coffee; you stated, just now, that it would not be easy to detect whether the proportion of chicory actually present was 20 or 25 per cent.?—I believe not.

120. Suppose you established a maximum, and imposed a fine upon those who exceeded the maximum, which would apply though there was only two or three per cent. over the maximum, would not the same difficulty arise which you have described in the case of the 20 and 25 per cent.?—No doubt.

121. Do not you think, therefore, that there would be a great difficuly in defining the maximum which might be allowed?—No doubt a very great difficulty.

122. Practically,

122. Practically, is not it your opinion that if it is expedient for the Legislature to interfere to protect the humbler classes from this practice, it can only be done by having the two articles sold separately?—It would be so in the case of a dishonest dealer; and then the purchasers might mix in any proportions they pleased.

123. Mr. *Moffatt.*] Are you aware of the quantity in which coffee is bought by a large number of consumers?—No.

124. Are you aware that the great bulk of the coffee upon which duty is paid in this country is sold in ounces and half ounces?—I am aware that it is so in a retail shop.

125. Would it be practicable where coffee is sold in such small proportions to sell a certain quantity of chicory and a certain quantity of coffee to those poor people?—That is rather a question not so much connected with chemistry or science as expediency.

126. The examination has tended to what would be correct legislation in respect to the sale of coffee and chicory, and it has been suggested to you that the purchaser should buy the two articles separately, and mix for himself?—In treating this question for the inland revenue, we considered it would be, in many respects, a convenience for the poor, assuming they were honestly dealt with, that they should buy the mixture rather than that they should buy two separate parcels and then mix them.

127. Mr. *Otway.*] The poorer classes generally use sugar with their coffee, do not they?—Yes.

128. Do not they buy the sugar separately?—Yes.

129. Mr. *Moffatt.*] It has been given in evidence before this Committee, that in the year 1851 there was a report made to the then Chancellor of the Exchequer, that neither by chemistry, nor by any other means, was the admixture of coffee and chicory to be detected; your evidence seems to be directly contrary to that?—Our Report is dated in March 1853.

130. Have any new lights in science broken upon the article of chicory between 1851 and 1853?—I am not aware of it; chicory is very easily detected, and has been very easily detected for a long time.

131. *Chairman.*] Can it be detected by chemical means, or by the microscope?—By the microscope. I think there must be a great mistake in that evidence, because here (*producing the same*) is a Report by Dr. Lindley and Dr. Hooker, presented to the Government, in which the microscopical characters of chicory and coffee are given. A very simple test has been already mentioned before the Committee, namely, putting a small quantity in a glass of water; if there be any chicory in the coffee, even a small per centage, it falls through the water, and gives a brown colour, in a very few minutes, to a wine-glass of water; if the coffee be free from chicory, it remains for a long time without giving any colour to the water.

132. Mr. *Cowper.*] Is it your opinion that chicory has not the same nourishing qualities as coffee?—I do not think it has; chicory, if it has any property at all, is a bitter, and I think it would act as a slight purgative; but there is nothing of the nature of coffee about it.

133. I understood you to say that there was saccharine matter; is not that saccharine principle in it nourishing?—It is like burnt sugar or molasses, or any substance of that kind. There is just the little amount of nutriment which is contained in what is soluble out of the chicory.

134. It possesses none of the refreshing or invigorating qualities of coffee, does it?—No.

135. Mr. *Moffatt.*] The addition of 50 per cent. of chicory to coffee, which you think would be right, enables the fair dealer to supply the poorer classes with what they take as coffee at a much lower rate than they could otherwise buy it?—Yes.*

136. There may be a decrease in price to the extent of 30 per cent. probably?—Yes; that is the result of the information that we obtained.

137. Mr. *Otway.*] It is considerably cheaper, is not it, than the cheapest coffee which can be sold?—Yes.

138. Then,

* A mixture of 50 per cent. has not been advised; on the contrary, such a mixture has been objected to. See Questions 85, p. 9, and 87, p. 10. *See* also *post,* Question 140.

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138. Then, upon the understanding that this admixture would not be easily discoverable, suppose the maximum of chicory which you consider right to be exceeded, it is clear the seller might derive a very large profit from his dealings with the poor by exceeding that proportion?—Yes.

139. In fact, there is nothing to rely on but the honesty of the vendor?—Yes, and the taste of the public.

140. Mr. *Moffatt.*] What else have you to rely on in almost all the traffic which is being carried on?—If any vendor sought to sell coffee containing 50 per cent. of chicory, I think there would be a great objection to it, and it would not be a saleable mixture.

141. Is not the only safe and real protection to let the public take care of themselves in all such questions?—That is a question for the Committee to consider rather than for me.

142. Lord *C. Hamilton.*] Is not it the case that it was proved before the Commission which originated this inquiry, that those mixtures which were most largely adulterated had very beautiful Oriental names in order to deceive the public?—I do not know how that may be.

143. Mr. *Otway.*] Is not it rather an expensive process for a poor man to take care of himself, the only test being one of analysis, which is rather an expensive process?—Yes.

144. What would be the expense to a man of having a parcel of coffee analysed?—To a poor person one should charge, perhaps, half a guinea or a guinea. I think the great check possessed by a poor person would be his taste.

145. Mr. *Otway.*] Do you see any objection to selling the two articles separately beyond that of its inconvenience?—No; I see no other objection than that, the inconvenience. That was the chief argument that was used, that the mixture would always be ready for a person to use without the necessity of resorting to two parcels. Perhaps I may add, that among the questions proposed to Dr. Carpenter and myself was the following: "If coffee be sold mixed with chicory, can the proportion be limited in which the two bodies are mixed?" In answer to this question, it was stated, "That when chicory and coffee are allowed to be ground together and sold in the mixed state, although a better keeping and cheaper article may thus be afforded to the public by honest dealers, there is nothing to prevent a dishonest man from mixing a very large proportion of chicory powder (say 75 per cent.) with coffee and charging a high coffee price. We know of no method by which the proportions of chicory and coffee can be limited if the sale of the mixture be allowed; it must depend on the conscientiousness of dealers and the discrimination of the public. We have the evidence of highly respectable dealers to the fact, that when the permission to sell the mixture existed, if the proportions went beyond half and half the poorest people complained, and nothing but necessity would ever induce persons to use chicory alone."

146. *Chairman.*] Are there any other articles which you have had occasion to examine?—Yes; isinglass and gelatine I have had occasion to examine. I have examined most kinds of isinglass imported into this country from Russia and from the Brazils, and also the patent refined isinglass, as it is called, which is manufactured in this country, a pure kind of gelatine made from the skin of the ox and the calf. With repect to the isinglass from Russia, there is a great deal, or there was a great deal, I should say, for my researches extend to five or six years back, sold as best Russian, which was mixed with a large quantity of Brazilian isinglass. Brazilian isinglass differs from Russian isinglass in leaving an insoluble residue of nearly 20 to 25 per cent.; the very best Russian leaves perhaps two or three per cent., that residue being part of the albuminous membrane of the fish bladder. The Brazilian isinglass is chiefly used by brewers for refining beer and malt liquors of various kinds. There is a great difference in the price; taking the articles separately, the Brazilian sells for from 6 *s.* to 10 *s.* a pound; the best Russian sells for 15 *s.* Then with regard to gelatine, there is a very great difference in the quality of gelatine as it is found in the market. Here is some (*producing the same*), which is very like glue.

147. Viscount *Goderich.*] Do you consider gelatine to contain the same properties as isinglass?—The properties of isinglass as a nutritious article of food are owing to the gelatine which is in it. What is not gelatine is of no service. That albuminous part of the membrane which subsides is not gelatine; that

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that which dissolves in water and forms jelly is the gelatine; so that whether it be from one variety of isinglass or another, the principle is the same all through.

148. *Chairman.*] From what is this gelatine principally made?—It is chiefly made from the skins of bullocks and calves. That is boiled up in water, and when properly made, without any chemical operation, it forms a very beautiful substance, of which this is a speciman (*producing the same*).

149. Mr. *Moffatt.*] Is that made in this country?—Yes.

150. Viscount *Goderich.*] That is for all purposes just as good as the isinglass derived from the fish?—Yes; in fact I prefer it. I have used it five or six years in preference to the isinglass derived from the fish bladder.

151. Do you know an article called patent refined isinglass?—Yes; that is it.

152. And that is considered to be as good as real isinglass?—Yes; it dissolves in water without leaving any residue.

153. Mr. *Moffatt.*] This patent isinglass is pure gelatine, while the isinglass which is imported from Russia and Brazil has always more or less of impurity?—With respect to the best Russian, the per centage of impurity is so small that we need not consider it. But this article is far superior to the bulk of that which is sold as isinglass in this country. We have in that patent isinglass a valuable article, which will in time supersede a very large part of the importation of isinglass from abroad; the gelatine, which is extracted by a simple process from Brazilian isinglass, is equally good; that is to say, by heating the isinglass with water, straining it, rolling it, and cutting it. Whatever the gelatine is derived from, whether it is from the bladder of the fish, or whatever it may be, the principle is the same.

154. What is the general character of the gelatine which is sold in this country?—The general character is that of an inferior article, and a great deal of it is unfit for food; when put into water and warmed there is a very offensive animal smell about it.

155. What do you suppose this to be made of?—It is made from skins, and it may be from the feet of animals; a great deal is brought from abroad, therefore we do not know what they put into it. In order to conceal the yellow colour they put a pink colouring.

156. Mr. *Kinnaird.*] From what country is it chiefly imported?—Chiefly from France; but a great deal is made in this country.

157. Lord *C. Hamilton.*] Would that answer the purpose for which isinglass is used?—No; it makes a very nauseous sort of jelly.

158. Is not there a mode of putting one layer of isinglass and two of this gelatine, which produces an article that passes in the market as isinglass?—Yes; it is no doubt a very great fraud; there is no doubt that bad gelatine is frequently in that way incorporated with good isinglass. There is a very cheap gelatine sold to the poor at about 6 *s.* to 8 *s.*, or 10 *s.* per lb. But when you come to the higher qualities you must pay a large price, and that patent refined isinglass which I have placed before the Committee is, I think, 16 *s.* a lb., whereas the best isinglass is 18 *s.*

159. Viscount *Goderich.*] I understand you to say that you think the effect upon the human body of that patent refined isinglass is the same as that of the fish isinglass?—Yes; I have used it for some years myself.

160. You do not therefore agree with the opinion given by Dr. Letheby in contradiction to that; he says that he differs from Mr. Wallington, who had given evidence in favour of the patent refined isinglass, and that there is a great difference in respect to the price, and in respect of the taste of the article, and also a great deal of difference in respect of the action upon the human body; for instance, the flavour of ordinary gelatine is more like that of glue than real isinglass?—He is speaking of ordinary gelatine; wherever there is a yellow tint I should condemn it, but where it is white, such as that which I have placed before the Committee, it contains the pure gelatinous principle. A person buying 100 lbs. of it would buy 100 lbs. of the pure gelatine; whereas in buying 100 lbs. of Russian isinglass there would be at least 2 lbs. or 3 lbs. of residue, which no one will eat. In the Brazilian isinglass there would be 25 lbs. of such residue. The Brazilian isinglass is chiefly used by brewers for refining, and also by dishonest persons for mixing with the better qualities of Russian isinglass in order that it may be sold as good Russian isinglass.

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161. Mr. *Kinnaird.*] Have you any knowledge as to the amount of pure and impure gelatine used in France?—No; I have examined many samples of the French gelatine obtained from respectable dealers in England, and it has been a very improper kind for food; it has been in thin sheets, made thin to conceal the yellow colour; it looks as if it were very pure till you put it into warm water; it then settles into an offensive animal compound.

162. Dr. Letheby says that most of the gelatine coming from France, comes from a large horse slaughterer's near Montmartre; should you agree with that?—No; I know that there is a large horse slaughterer's there, but a horse skin is not fit for use for the purpose of making gelatine; I should think that what we receive would be much more impure than it is if it were so, If you put any sample of gelatine into a little warm water and let it settle into a viscid mass and take it out and smell it, you immediately find whether it is wholesome or not.

163. Mr. *Gregson.*] Do you mean to say that the common test of putting it into warm water is applicable to all these qualities?—It is, and you can tell the bad isinglass, because it has a fishy smell; in the common kinds of gelatine the liquid is overheated, so that it is partly decomposed, whereas in the manufacture of the better kinds of gelatine, as I have ascertained by the use of the thermometer, the heat rarely goes above 170° or 180°, so that it does not injure the cellular structure of the skin. Isinglass dissolves more readily, that is to say, treated under the same circumstances; but if gelatine be put into cold water, so as first to imbibe the water, it afterwards dissolves very readily in hot water.

164. Is this patent material which you are speaking of sold under the name of gelatine?—No, under the name of patent refined isinglass.

165. Is it isinglass?—No.

166. Then the title ought not to be given to it of isinglass?—It is not isinglass; when gelatine was first made in this country, a few years ago, it was made by means of chemicals; potash and other substances were used, and it was affected in its properties, and a nauseous compound being sold under that name, the public were disgusted at it; many are now averse to the very name of gelatine, though they are not aware that whatever is good in isinglass is really gelatine, and nothing else; I understand, however, that any attempts to sell this product as gelatine would fail, for the name would prevent its sale.

167. Lord *C. Hamilton.*] That is a prejudice which may pass away as people become informed as to the facts?—Yes; calf's-foot jelly is what we are all acquainted with; there are some persons who never use either gelatine or isinglass, but they have the calf's-foot and make the jelly at once.

168. Mr. *Gregson.*] Have you any idea what proportion the consumption of the best isinglass bears to the general consumption of this gelatine matter?—No; but the consumption of pure gelatine, and even impure, has increased of late years very much, and there is this difficulty, that so much isinglass is now mixed with gelatine, and the mixture is sold under the name of isinglass.

169. Do you know what quantity of foreign isinglass is imported?—No; there is a large amount comes from Russia, but I do not know the actual amount.

170. Mr. *Moffatt.*] Have you any evidence to give to the Committee in reference to the adulteration of vinegar?—I have made examinations of vinegar frequently, and, generally speaking, I have found what I should call an undue quantity of sulphuric acid. I have never made a quantitative analysis, having no object in it, but I saw by the effect of the tests that there was an undue proportion of sulphuric acid. One sample of vinegar I have examined having no sulphuric acid.

171. It has been given in evidence before this Committee that there was a large quantity found in vinegar; that in 28 samples only seven were free from adulteration, and that in seven out of the 28, oil of vitriol was present in immense quantities: are you cognizant of any such fact?—No; and I think it wrong to call that oil of vitriol. No person could drink oil of vitriol; it must be diluted; there may be one or two per cent. added as a maximum to give strong acidity, but you could hardly say that a person taking that would be taking oil of vitriol.

172. Mr. *Kinnaird.*] What would be the effect upon the human frame of two per

per cent. of sulphuric acid in the vinegar?—Where a person did not require it as a medicine, it would injure the stomach in time; it would have the effect of interfering with the proper digestion of food.

173. In the case of people who are in the habit of eating oysters, and of taking a great deal of vinegar with them, would it injure the stomach?—They must take a very large quantity, day by day, for that effect to follow.

174. Have you examined the vinegar used at the stalls in the streets, where oysters are sold?—I have not examined that vinegar; I have only examined what has been purchased as vinegar in the shops, and there I have found occasionally a large quantity of sulphuric acid; but the public are protected to a certain extent; for where sulphuric acid is found in enormous quantities, people could not drink it. I think, however, it is a point which decidedly requires the attention of the Committee.

175. Mr. *Gregson.*] Is there any easy mode for a consumer to detect it?—Only the disagreeably strong acid taste, with a sense of irritation about the teeth.

176. Lord *C. Hamilton.*] So that there would be to the consumer a very ready test in that way?—Where it was present in large quantities.

177. Is there any harm in the substitution of pyroligneous acid?—Pyroligneous acid when properly made would not be unwholesome, but often as distilled it contains other matters with it which are not proper to introduce day by day into the frame. You may obtain very good pyroligneous acid, but then it would be more expensive even than using vinegar.

178. It would be less injurious than sulphuric acid?—Certainly; I think pyroligneous acid is a great deal used.

179. Mr. *Kinnaird.*] Is sulphuric acid peculiarly injurious to the teeth?—Like all other mineral acids, in the act of swallowing, it acts upon the teeth.

180. Mr. *Moffatt.*] And produces a disagreeable sensation?—Yes; a sensation of very great sharpness.

181. *Chairman.*] Have you made any examination of drugs?—Very little. I have occasionally examined scammony; but not with any view to detect adulteration. Chemicals I have sometimes had to examine. In one town, I could obtain no muriatic acid which did not contain arsenic. There is a large quantity of sulphuric acid manufactured from iron pyrites, and that almost always contains arsenic, and of course the other acids which are made from that sulphuric acid are also impregnated with the arsenic; it is a very cheap acid, and people buy it for its cheapness. They may get it pure, if they please, but they too often buy that which is impure, and which contains arsenic.

182. Has your attention been directed to the question of what are commonly called quack medicines?—Yes; I have had several cases of that kind. Most of those pills which are sold, and are so largely used by the poor, contain very drastic purgative medicines, such as aloes, colocynth, and gamboge; and as they are manufactured on a large scale, it very often happens that the materials are not properly mixed, and in some quantities of them, there may be more gamboge; in others more aloes; and in others more colocynth; so that they occasionally act with great violence, and in weak constitutions have led to death by the violent cathartic effect they have had. I think, if it would not interfere too much with the liberty of the subject to prevent persons from taking what pills they please, some check upon them would be desirable. As at present used, they are used indiscriminately by all kinds of persons, and for all sorts of diseases; and for many of them they are decidedly prejudicial, leading, if not to death, at least to serious illness.

183. Are they now prescribed frequently by persons in the profession?—Not by the medical profession.

184. Any man may compound pills containing a mixture, whether he be in the profession or not, and therefore practise as a professional man by dosing Her Majesty's subjects with any materials he pleases?—Yes, by an exclusive sale of pills; it is with that view the medicines are sold.

185. A man cannot practise surgery or medicine without complying with certain formularies, can he?—He cannot practise medicine, but as a surgeon he may practise.

186. These persons may prescribe medicines without having any professional education or undergoing any professional examination?—Yes; they are both

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prescribers and compounders without being licensed; they make up pills by wholesale, and sell them to all persons who apply to them.

187. Mr. *Gregson.*] They do not prescribe at all, you say, but they sell a universal remedy for all diseases?—Yes.

188. *Chairman.*] Have you any general observations to make upon the subject of adulteration?—Adulteration may comprise, first, the admixture of noxious or unwholesome substances with articles of food. Now there I would beg to suggest that I have given several instances of that kind of adulteration especially; I have mentioned coloured confectionery as an unwholesome substance, and I have referred to many noxious substances, such as the oil of bitter almonds, and the almond flavour; and it would be a matter for consideration whether there should be a prohibition of the use or sale of these articles, except under close restrictions, and whether there should be some power to visit, inspect, and take samples for analysis, and a right of seizure of all noxious articles, and a fine if improperly used; that is based upon the French laws.

189. Does not the French law imprison a party in case of an offence?—I think the only punishment is a fine; they imprison only in case of the fine not being paid.

190. Lord *C. Hamilton.*] Is there a cumulative penalty for a second offence?—Yes. The second kind of adulteration relates to the admixture of articles which may not be noxious *per se*; and in this case the question of prohibition is one with which a chemist can hardly deal. There are many instances of that kind which I have adduced; for example, in the case of anchovies, oxide of iron is perfectly innocent; and grains of paradise, and ginger, and quassia, mixed in beer, have nothing unwholesome about them; but still it is giving a false character to the articles sold. Then comes a second point, that an article may be adulterated with something not injurious to health, for the purpose of increasing its sale. It might possibly be a consideration for the Committee, whether, if such articles are sold, there should not be some ticket or label on the article, to say what is mixed with it; for instance, in the case of anchovy sauce, it should be mentioned that there is oxide of iron in it. The third class of cases is this: it is one which it appears to me most difficult for a chemist to consider, or, in fact, for the law to deal with; it is that class of cases in which articles of food not necessarily injurious or unwholesome are sold as substitutes for others. I did not mention arrowroot in the course of my examination, but I have had, on several occasions, to examine arrowroot, when it has been mixed with potato starch and other kinds of arrowroot of inferior qualities. Within the last three days I made an examination of samples for a merchant in London, and what has been introduced as the best Bermuda arrowroot contains a quantity of Tahiti arrowroot. In fact, there is a very great admixture here; now, that is not unwholesome. As far as nutrition is concerned, the one is as good as the other; but I condemn the selling of one article under the name of another.

191. Is there any pecuniary benefit resulting from the substitution in that case?—Yes; one is much more valuable than the other.

192. Mr. *Kinnaird.*] The nutritive quality of arrowroot is very small, is not it?—In certain states of the body it is well fitted for bringing up the strength of the body when stronger food cannot be digested.

193. Mr. *Moffatt.*] You say that the mixture of those two arrowroots must be for the purpose of fraud; I will put to you the case that the pure arrowroot being sold at 5 *s.* a lb., the mixture containing Tahiti arrowroot of an inferior quality is sold at 3 *s.* a lb., where is the fraud in that case?—That is a question which the Committee must consider.

194. Have you any experience as to the price of arrowroot?—No.

195. Are you aware that the arrowroot containing the inferior compounds has been sold at the same price as the best arrowroot?—The samples which were sent to me were sent to report upon as to whether they were genuine, and which was the better. That led me to an examination, and undoubtedly there was in that arrowroot a very great mixture.

196. Do you speak with confidence that there is no difference in the nutritive qualities of those two kinds of arrowroot?—I am not aware of any difference. I should regard it in this light: there are in vegetable substances gum, sugar, and

and starch. Starch is starch; it is a mere matter of opinion as to whether one kind is not better than another; but I know of no medical fact whatever which should lead arrowroot to be considered so much better than many other starches, provided those starches are themselves wholesome or good.

197. Lord *C. Hamilton.*] Do you think that pure arrowroot is sold at an undue price in relation to its superiority over other kinds of starch?—I think there is a kind of prejudice in favour of Bermuda and West India arrowroots, though other kinds may be equally good. My opinion, as a chemist, is, that starch, whatever its nature, whether from the tuber of the potato, or from the tuber of the arrowroot, is equally wholesome. With regard to the cases in which articles of food, not necessarily injurious, are sold as substitutes for others, which would embrace a large number of articles, there is a great difficulty in dealing with them. For example, I have had to examine the manufacture of candles to a large extent. A large quantity of candles are now manufactured and sold as sperm and wax, which are not sperm and wax. Stearic acid is used; it is an admirable manufacture, and they are excellent candles; but they are sold under a name which does not belong to them, and then, to give them the appearance of wax, they are coloured with yellow colouring matter, but unless sold as wax or sperm, they would not meet with a ready market. That is very analogous to some other cases, such as mixing chicory and coffee, and arrowroot and starch; there being nothing particularly unwholesome in these mixtures, and yet it may be that the public do not get the full benefit of what they pay for.

198. Mr. *Gregson.*] Is not the stearic acid injurious?—No; stearic acid is a compound very analogous to wax, and has no injurious property about it.

199. Mr. *Villiers.*] What do you mean by this being difficult to deal with?—It is a question how they can be comprehended under any of the prohibitions we have been considering.

200. It is easy to ascertain whether the fraud has been practised, is it not?—Certainly; it is only that it would require a very large survey of the whole of the trade. I am very frequently consulted in commercial matters. Some years ago I had to investigate this fraud. A cargo of indigo, it was said, had been shipped from Singapore; it came into the port of London, and there was then a dispute between the persons to whom the indigo was consigned and the shippers as to whether it was indigo or not. They brought it to me, and upon examining some of the pieces I found indigo, and upon examining others, Prussian blue. Prussian blue was then known to be cheaper than indigo, and it was a question whether the Chinese merchants had not fraudulently sent that material instead of indigo. Upon making a minute examination, it turned out that they were masses of Prussian blue which had been coated with indigo, so that the centres of the lumps were Prussian blue, while the outsides were indigo.

201. That was not easily detected; it was only detected by referring it to a person of your experience?—Just so; you could not have detected it from the appearance of the article. Upon my report, the difference of value was immediately paid. I at once showed the parties what the difference was. Heating the material over a candle in a silver spoon at once settled the difference; indigo is volatile with a purple colour, while Prussian blue turns brown without any volatility at all.

202. Mr. *Sheridan.*] Are the candles you have spoken of sold at a cheaper rate than the candles they are intended to represent?—Yes; we get by the stearic candle manufacture excellent candles, at a cheap rate, equal to wax.

203. Do you draw the attention of the Committee to that as a fraud?—No; only they are sold under the name of wax and sperm candles when they are, in reality, another substance.

204. They would not be able to sell wax candles at the rate at which they sell the candles you speak of?—No.

205. Lord *C. Hamilton.*] Do you imagine that the assumption of a name which does not properly belong to them increases their price?—I can hardly say that, because I do not know what the price is. I think the public have a considerable benefit in them; they are almost equal to wax in regard to light and burning, and they are cheaper than wax.

206. Mr. *Kinnaird.*] Have those candles no proper name?—Price's composition candles are one kind, and there are others manufactured at the Fair-

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field Works, near Bow. There are many called Ceylon wax; patent wax and patent sperm, which I know are in a great part composed of stearic acid. With regard to scientific matters, as the case at present stands, suppose there is any impurity which is complained of; it is undoubtedly costly for any poor person to come to a chemist to have it investigated, for even a very simple matter may occupy half a day, or longer. The misfortune of the present state of things is this, that it is quite easy to find a chemist who will take an opposite view, and assert that there is no adulteration; there is often very conflicting evidence in such cases, and supposing it is alleged that a certain article has been adulterated, persons may come forward and say it is genuine. I have known that contest with regard to flour, where bone earth had been alleged to be mixed with it. Now, bone earth is phosphate of lime, and all corn contains it. Therefore there is this misfortune, that a magistrate has to decide upon a conflict of testimony, and the case falls to the ground. A case occurred to me some years ago, in which a gentleman, a respectable solicitor, who told me he was concerned for a country brewery, called upon me, and requested I would go down to defend a case against the Excise, chemically, in regard to the adulteration of beer. I inquired of him what the nature of it was; he had Bradshaw's Railway-book all ready for me to go immediately, without letting me know the particulars of the case. On inquiry I found it was this: a very large quantity of copperas, or sulphate of iron, had been seized upon the premises of his client, and he had read in my book on Poisons, that it was not an active poison, and he presumed I should be able to give evidence that there was no harm in putting the copperas into the beer. I immediately told him I quite disagreed from that view, and though there might be no harm in a man swallowing half a pint of beer with copperas in it, yet taking that day by day was a great imposition, and would in the end damage the health. I mention this to show that there is at present a kind of protection for adulterations of this description. I believe that gentleman found the means of defending his case afterwards, and it is very easy to do so without imputing a want of conscientious motives; one chemist may take the view that the substance is not injurious, and another may think it is: and as to the small quantities which may be contained in substances which are consumed for food, the question is, not whether there is enough to kill a man outright, but whether the constant and daily use of such substances over a long period may not seriously affect his health.

207. Mr. *Villiers.*] There cannot be a question between two chemists as to the presence or absence of such injurious substances, can there?—No, not as to their presence; at least there ought not to be; but there may be a dispute as to their properties. With respect to chicory, I see that oxide of iron is set down as very frequently added to chicory. Now it must be remembered that chicory is ground in the midst of stone cylinders, and in the midst of a large quantity of rusty iron, and all the chicory root yields oxide of iron. When chicory is roasted, losing 78 per cent. of water, the roasted chicory contains five times as much of the iron, silica, and lime as the fresh root originally contained. So that it is very desirable to know what the original constitution of a substance is, before we say that such matters have been fraudulently added. I can see no object in adding oxide of iron; it is perfectly insoluble, and it would have no effect except that of giving a little rusty colour.

208. *Chairman.*] Are you now endeavouring to satisfy the Committee that a really high standard of chemical examination would be required for the detection of these adulterations?—I do not say so much a high standard, as a careful examination, and we should especially distinguish between adulterations and accidental impurities. There are many accidental impurities which we meet with in all articles of food, which cannot be set down as adulterations. So with regard to medicines. It is very easy, by a general analysis, to determine what is present, and to say whether there is an undue proportion or not.

209. Are there any remedies for the existing evils which you have to suggest?—I have rather sought to suggest to the Committee that there are these three cases: the admixture of noxious substances injurious to health, which I think decidedly should be prevented; the admixture of substances not noxious, which is done in order to attract attention, and lead to an increased sale of the articles; and lastly, the admixture of substances almost all equally wholesome as those with which they are mixed, but inferior in quality and price, perhaps, and

and that is a point of course for the Committee to deal with. There are many things now sold in this country under a name which does not really belong to them.

210. Mr. *Kinnaird.*] You think that whenever a substance is mixed with others, and is not what it purports to be, it should be made public that it is not a genuine, but a mixed article?—That would be fair to the public, but the great point is to look to the wholesomeness of the article. Supposing, for example, it were prohibited to mix isinglass with gelatine; there are some kinds of gelatine infinitely superior to many kinds of isinglass. Patent refined isinglass is better than any Brazilian and a great many varieties of Russian isinglass; therefore if the Committee were to license the sale only of isinglass, and to put down that of gelatine, it would be putting down the most nutritious article, while it would be giving a preference to some varieties which are not fit for food.

211. Viscount *Goderich.*] Do you think that gelatine should be sold under the name of isinglass?—No; I think things should be sold under their correct names.

212. Mr. *Villiers.*] You think it the safest course for the community that they should be so?—It is the safe and honest course.

213. Have you any suggestion to make for ensuring that object; do you think if there were some public officer appointed, to whom such matters could be referred, and who was competent by experience and knowledge to determine them, it would have a sufficient influence over the trade to induce them to act honestly and fairly in such cases?—I think so; and it would be an excellent step to take. Unfortunately, scientific men are often unconsciously biased by the parties who apply to them, and it is difficult to get at the truth. I think a Board for such a purpose should be constituted; it might be of five or more persons; one person would never do, it requires a knowledge of chemistry, of botany, and of natural history; the Board should be constituted of men of competency in different departments; and that Board being associated with the Inland Revenue, or any other public Board, if articles were referred to them, and a decision taken upon their analysis, it would not only benefit the public, but put down a great deal of adulteration.

214. Are the Committee to understand that you think no one analytical chemist could decide upon a variety of different articles?—I do not think he could; as a chemist he could, but the microscope is required, and further than that, a knowledge of botany in many cases.

215. With respect to a public officer, do not you conceive for all the purposes of the necessaries of life, and with a view to prevent their being adulterated, some chemist paid by the State in any given district would be sufficient, if there were the power to refer all those things to him, to prevent frauds?—I think it would be far better to have one competent Board for the whole country.

216. With respect to the facility of access, and enabling the poor to take the things they buy at shops, and submit them, upon any given occasion, to analysis, a single chemist in a district must be of much more ready access than a Board for the whole country could be?—I think there would be a great difficulty in finding competent men for all districts, so few persons have devoted themselves to these researches; a staff of men might be formed in time, but at present there would be great difficulty.

217. How could the Board which you propose act at all as a check in a village, or in a distant place, upon these frauds?—There would undoubtedly be a difficulty; but I think it would be a far greater satisfaction to the public mind that the adulteration of any particular article should be certified by five men of competence and standing than that it should be certified by one. I think men living in local districts might be open to influences which might lead, unjustly perhaps, to suspicion.

218. *Chairman.*] Might there not be a public officer in a provincial town, to whom the poor person should have immediate access, and who might forward the articles complained of to a central Board, where they might be tested and reported on, and the matter determined, without any expense to the poor man?—I believe no report of any single analyst would satisfy the public; I think it would rather be the united opinion of at least five persons of competency and trust which would alone satisfy the public.

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219. Mr. *Villiers.*] You agree in the principle that there should be such a body in the country?—Yes.

220. Mr. *Otway.*] You have frequently at present sent up to you by railway every part of the human frame for examination, have not you?—Yes.

221. Could not a parcel of adulterated coffee, or any other substance, be sent up to the central Board, to be reported on in the same way?—Certainly. I think four or five persons might give satisfaction; but I do not believe one would.

222. Lord *C. Hamilton.*] Do you think any Board which could be constituted as a Board of Appeal, looking to the great advance which chemistry has made within the last few years, could long maintain the influence with which you propose to invest them?—I think they ought to be replaced by others as soon as they showed themselves incompetent.

223. You have stated our difficulty to be that you can always get another chemist to give an opposite opinion to that which one chemist may have given?—A plaintiff will probably go to 20 chemists, and out of them all he may easily find one to meet his views, and the defendant may do the same. I think if there were four or five men known to the public as competent and honest-dealing men appointed,—if a sample of coffee, said to be adulterated, were put into the hands of such a body, though the opinion of one might be open to suspicion, the opinion of the five would not.

224. Mr. *Peacock.*] Are there the materials for such a Board in many country towns?—There are some very excellent chemists in many country towns, but I consider it would be difficult to find such men in villages.

225. Do you believe that in most county towns there are the materials for forming an analytical Board?—In many there are; in all the large capitals there are, undoubtedly. There are some county towns I could name where I do not think there are; and I form a judgment upon that subject from the circumstance of having their analyses referred to me.

226. Do you think the poor-law union doctor is capable, generally speaking, of making analyses?—I do not think he is.

227. Mr. *Villiers.*] Do you consider, from your experience, that these adulterations extend so far as to be considered prejudicial to the public health?—I think they do. I think there is a great amount of them; and many of the obscure diseases the lower class suffers from, I think, may be fairly traceable to the improper food they take, and to the adulterations of food. I think it has been exaggerated, and that there has been a great outcry and more complaint than is justifiable by the facts; but at the same time, there is no doubt among the poorer classes that a great amount of disease may be ascribed to improper food.

228. Lord *C. Hamilton.*] Do not you think that the very outcry you have described has already removed some of the abuses which have existed?—I think it has; in the case of pickles and confectionery to a certain extent it has.

229. Mr. *Otway.*] Do you think much benefit would arise from the suggestion which has been made of publishing the names of all tradesmen in all parts of the country who have been convicted by the central Board of selling adulterated articles?—I think so; it has been done in France.

230. In France they entirely prohibit the sale of certain articles of an injurious quality, do not they?—Yes, they do.

231. Mr. *Kinnaird.*] As far as your experience goes, do you think this evil of adulteration has been on the increase during the last few years?—I think it has been, till inquired into by the Committee.

232. Do you consider it has arisen from increased competition?—I think it has arisen, in a great measure, from the desire to sell articles at a low price.

233. Mr. *Moffatt.*] So that the public have got, in fact, an inferior article at a less price?—Yes.

234. Did I rightly understand you to say that you recommended a system of inspection throughout the kingdom?—No; what I say is this, I think what would meet the present difficulty, and perhaps ultimately do away with the necessity for frequent inquiries and analyses, is the constitution of a competent Board of five or six persons possessing various information; and that all articles which are sent for examination should be examined under their superintendence, and certified accordingly.

235. Mr. *Gregson.*] Under your first head of noxious and unwholesome articles you proposed as a remedy to inspect and examine; have you not already the power to inspect and examine every shop?—Upon purchasing articles you can examine them, of course. My suggestion was rather taken from the French rule, which I will, on a future day, lay before the Committee. Certain officers in France can go officially into a shop, and demand articles which they suspect to be adulterated.

236. Is it not better that persons should go in without authority, and purchase articles which may be examined?—It may be better; at the same time you are aware that excise officers often pay a sudden and unexpected visit, and lay their hands upon any article without asking permission. If a person went into a shop for a certain article, there might be a suspicion on the part of the dealer, and he might be told, "We cannot sell this to you," or "We have not got it."

237. Mr. *Peacocke.*] Do you propose that the members of this Board should have fixed salaries, or that a payment should be made to them upon each of the articles which might be sent up to them?—I think it better that there should be a fixed salary.

238. If an Act was passed for this purpose, do not you think that at first there would be such a quantity of articles sent up for inspection that a single Board could not fulfil the duties?—Supposing a Board of five persons were appointed, a great deal might be done for them by the assistance of others; they might not personally go through every manipulation themselves.

239. Do you think they could superintend the analysis of all the articles which might be sent up to them?—I think they might do so.

240. You would probably think that any prosecution that might be carried on should be at the public expense?—Yes; and we should remove as far as possible the idea that might exist among dealers that they were condemned by the voice of one man, and that, perhaps, a neighbour living in their own district.

241. Mr. *Moffatt.*] Would not it happen that a person who adulterated his goods, would take care to sell some which were pure, and that he would get a friend to buy some, which would be sent up for examination, and upon which he would obtain a certificate that his goods were pure?—Yes; I am afraid that that is a good deal done now.

242. *Chairman.*] There is no good without its abuse, of course?—No; I am afraid, with respect to many articles which are analysed for certificate, there is this serious objection, namely, that a good article may be produced expressly for a chemist to analyse and report on, while there is no guarantee, except the honesty of the party, that he will go on dealing in such good articles, so that a certificate may not always secure to the purchaser that he will receive the same description of article as that which has been actually analysed.

243. Viscount *Goderich.*] If an article were sent up to you to examine, and you found it pure, the certificate you would give would apply simply to the purity of that single article?—Yes, of course.

244. It would not certify the purity of any other article?—No; and generally speaking, if I have been called to analyse and report upon an article, I have confined my report to this, that the article I have examined, or that the sample forwarded, possessed such and such properties.

245. Mr. *Moffatt.*] It would have this effect with the public, would not it, that if any article which he was selling had been tested by this great central Board, and had been found pure, he would parade that fact, and it might lead to the public entertaining a general confidence in him that all the articles which he sold were pure?—That might be so.

246. Mr. *Villiers.*] The tradesman would be always liable to have other articles sent up to be examined, and one detection of adulteration would probably ruin him?—Unquestionably.

247. Do you think the results of detection would be sufficient without there being a fine or some other punishment inflicted?—I think the plan of the French Government might be adopted with respect to that; that is, fine or imprisonment; from 12 *s.* to 24 *l.* is the amount of the fine in France.

248. Mr. *Moffatt.*] Have you any information to give the Committee respecting the adulteration of tea?—No; I have not examined that particular article.

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249. *Chairman.*] YOU are, or have been, engaged in the grocery trade?—I am engaged in the trade now, wholesale and retail.

250. You are desirous, I believe, of giving some information to the Committee on the subject of what has been called the adulteration of coffee, tea, and other articles of grocery?—Having been connected for more than 20 years with the trade, and having heard the evidence which has been given before this Committee, I, as a practical man, entirely demur to the statements as to the extent to which adulteration is said to exist in the articles of tea and sugar, and one or two other articles connected with the trade. With respect to coffee, when I come to speak of that, it will be a question whether chicory is to be considered an adulteration.

251. Do you think tea is generally pure?—My impression is that black tea is generally pure. During the whole course of my trade I have never met with an instance of exhausted tea leaves, leaves of the birch, plane, bastard plane, poplar, or any of those leaves which are stated by former witnesses to be manufactured and mixed with tea. On Friday last a young man called at my counting-house and said, that seeing I was selling tea at a low price, he thought he had an article that would suit me; I asked him what house he represented. He said, "That is not material; I have a low priced tea, and shall be glad to sell it you." I told him I should be glad to know who I was dealing with. He produced a sample. I smelt it, and said, "This is kiln-dried tea." He said, "No, it is not." I said, "You must excuse me, I am sure it is kiln-dried or redried tea." He said, "It is redried tea, it has had but one water upon it, I believe; I have seen some statements in the paper that exhausted tea leaves have been manufactured and sold as tea, and I have tried to do it, and I can sell this at 1 *s.* 6 *d.* a lb." I said, "That will not suit me." He said, "I have had 1 *s.* a lb. offered for it, and I should be glad to sell it at 1 *s.* 6 *d.*" I asked him how much he had; he said, "About 6 lbs." I asked him the quantity he was able to produce; he said, "He could produce about four or five pounds a week, if he could get 1 *s.* 6 *d.* for it, but if he could get 1 *s.* only, it would not pay him to do so. After an experience of more than 20 years, that is the only case of spurious tea which ever came under my notice. I cannot but think, therefore, that the cases which have been brought before the Committee are exceptional cases, sought out for the purpose of supporting fictitious statements.

252. You do not believe that there are any shops at which this pretended tea is sold?—I do not.

253. You make a distinction apparently between black and green tea?—Green tea comes to this country in a faced state, that is to say, the Chinese use some facing to make the green tea appear brighter than it otherwise would do; but I do not think that the public or the Committee could look upon that as an adulteration.

254. With what is it faced?—With Prussian blue, I believe, and French chalk.

255. Are they harmless materials?—I am not a medical man, but I should imagine they are both harmless.

256. Mr. *Villiers.*] Did you say that you had never heard of adulterated tea for 20 years?—I have never had a sample come under my notice. Ten or 15 years ago there were several cargoes of tea that were wrecked. They were allowed to come into the Port of London, and the Customs, I believe, allowed the underwriters to make the best use of them they could. Some were kiln-dried in the docks and sold at a reduced price, but it was genuine tea. The adulteration, or rather impurity, consisted only in the tea having been saturated with salt water; the water was dried out of it.

257. You adhere to what you said before, that you have never seen or heard of adulterated tea in this country, except in the instance which you mention, which occurred the other day?—It has not come under my observation. I have heard, and it has been given in evidence by a gentleman from the Excise, that some years ago there was a manufactory existing somewhere in the Minories, I believe, for the purpose of manufacturing English tea, but the Excise found

it

it out, and it was done away with. The tea was confiscated, and nothing of the kind has been since in existence.

258. Mr. *Moffatt.*] Although a patent had been taken out for the making of that tea?—Precisely so.

259. Mr. *Villiers.*] I understand you to consider that one vendor's tea is as good as another's; that is, that the tea is generally pure?—It is generally pure.

260. You may rely upon the purity of tea wherever you buy it?—Yes, upon the purity of tea; there is, of course, a vast difference in the quality.

261. Mr. *Gregson.*] How many years have you been in business?—Twenty-one years in Gracechurch-street

262. And you never met with a package of adulterated tea?—Never.

263. Mr. *Kinnaird.*] You said you had either heard or read the evidence given here?—I have.

264. Did you not hear it stated in evidence, that the Chinese are in the habit of adulterating tea?—I have heard it stated in evidence that they do.

265. What steps do you take on opening a chest of tea, to ascertain that it is not an adulterated article?—I believe the adulteration by the introduction of spurious leaves is so rare, that it would not be found to be the case with one chest in a thousand. I never met with one which was so.

266. You therefore take no steps to ascertain the fact?—We test our tea in a small pot before we buy it, and before we sell it.

267. And you say you never found any adulteration in any samples of tea you have purchased or retailed?—I never found any adulteration.

268. Mr. *Villiers.*] Does that extend to tea upon its being imported; have you any means of detecting adulterations of tea which may have taken place in China?—Only by tasting.

269. Can you, by tasting, distinguish pure tea from tea adulterated in China?—I believe if adulterated tea were placed before me I could detect it immediately.

270. Are you aware of teas notoriously adulterated in China, and sent here, called lie teas?—That is green tea; I have seen it, and have refused it.

271. That is adulterated tea, is not it?—It is to this extent; I believe gunpowder tea is imitated by the dust of the tea or small leaves being manipulated with gum, and therefore that is gum and tea; but I have never discovered that there is anything but the tea and the gum.

272. Should you refuse that tea?—I would, and so would any man who knew his trade.

273. Is any of that tea imported now?—I believe not; a large quantity was imported, but it was found not to be suitable to this market; the merchants lost a large sum of money by it, and left it off.

274. Viscount *Goderich.*] You spoke of tea being faced with Prussian blue and other matters; do you consider that to be adulterated tea?—That is done by the Chinese as a rule. As a proof of that, if you take any green tea of the finest description, and break the leaf, you will see that the inside of the leaf is of a less bright hue than the outside.

275. Then when you speak of not having detected any adulteration in tea imported from China, you do not mean to allude to that practice of facing?—No.

276. Mr. *Sheridan.*] What is the test you always apply in purchasing tea?—Simply the taste of the infusion; I pour boiling water upon it, and let it stand a certain length of time, and taste it.

277. How would you detect the glazed article?—That you can detect by the eye; that does not require any tasting.

278. Mr. *Peacocke.*] Are you not aware that seizures of pretended tea have been made by the Excise?—I am aware of it, but that was some years ago.

279. It came under your attention then?—I said nothing was ever offered to me since I have been in business; and I believe that the cases which have been cited here are exceptional cases, and not the rule; the adulteration of tea exists to scarcely an appreciable extent in this country.

280. Mr. *Villiers.*] You have not, I understand, made any experiments yourself, or tried to ascertain the fact, whether tea is generally adulterated or not; you only speak from your personal experience?—I speak from my personal experience as a trader of 20 years' standing, and having a very great extent of communication with traders both in London and in the country.

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281. You receive pure teas yourself and sell pure teas, but you do not know what is the practice in other places where tea is sold?—I assume that if it were a general practice, in the course of 20 years I must have had this spurious tea offered to me.

282. Perhaps persons are known in the trade as being likely to take spurious teas, and some are known as not being likely to receive them?—I should think I should have been very likely to have had them offered to me, inasmuch as I sell a low priced tea; I am selling tea at 2*s.* 10*d.* a pound; I should have thought therefore I was just the person to whom such tea would be offered; I have made some extensive inquiries among persons residing in all parts of the town, and in many parts of the country, and they unanimously agree that the cases are exceptional cases, and as a rule they do not exist.

283. Are those persons in the same trade as yourself?—They are.

284. Mr. *Peacocke.*] The only test to which you have subjected your teas, is that of taste?—That is all; I might go as far as to say, I would challenge the whole of the former witnesses to purchase 20 lbs. of adulterated tea in the whole of London.

285. Mr. *Gregson.*] Do you buy upon your own taste, or the taste of others?—Upon my own taste.

286. Mr. *Peacocke.*] Have you ever asked any analytical chemist whether it is possible to detect adulteration by taste?—I have not. I believe that the cases which have been brought before the Committee are isolated cases; cases attempted to be got up. Dr. Normandy having stated that adulteration generally existed in one article, subsequently admitted that he went to his chemist and inquired where he was likely to meet with the adulterated article.

287. Viscount *Goderich.*] You purchase your tea, of course, wholesale; is not it most likely that it is the small retail dealers who sell sloe leaves and such things, if such things are sold; and that it is highly probable that the practice may go on without such articles being offered to you?—It being known that I supply small shops to a large extent, I think I should have had them offered to me.

288. Lord *C. Hamilton.*] Have you always dealt in the lower priced teas to a great amount?—Since the alteration of the duties I have.

289. How soon was it after you first changed your practice, and adopted the sale of the cheap kinds of tea, that this offer was made to which you refer?—It has been only made once, and that was Friday in last week.

290. Mr. *Gregson.*] Do you sell tea by retail?—I do.

291. *Chairman.*] What is the next article of which you wish to speak?—The next article is sugar. A previous witness assumed that there was 10 per cent. of adulteration in sugar, and that if that adulteration could be prohibited, and that 10 per cent. of extra sugar could be sold, it would yield a revenue of 300,000 *l.* a year. Now I contend that there is no adulteration in sugar. It never came under my notice, though I have made extensive inquiries on the subject. I believe, therefore, that the assumption of 10 per cent. of adulteration only exists in the brain of the gentleman who gave that evidence.

292. You mean to say that there is no adulteration of sugar to any extent?—I do.

293. Mr. *Peacocke.*] To what test have you subjected the sugar?—In the evidence which has been given it is not positively stated what is the adulteration which exists in sugar. One of the witnesses said that animalcules of some kind are found in nearly every hogshead of sugar.

294. Have you subjected sugar to any analysis excepting that of your taste?—No.

295. Lord *C. Hamilton.*] What is the exact meaning which you attach to the word "adulteration"?—I should say, for example, that a person mixing ground rice with pepper adulterated it; or that a person using flour, or anything that would deteriorate the quality of sugar, would adulterate it.

296. The mixing of any extraneous article to increase the bulk and the weight you would consider an adulteration?—Yes, except in the case of chicory; I make an exception in that case.

297. Viscount *Goderich.*] You have said that you did not think that tea is adulterated because you had never had any adulterated tea offered you; is it upon the same ground you think that sugar is not adulterated, or is it a mere matter of your own opinion and the result of what you have heard from others?—It

—It is a matter of fact and experience. Most of the grocers have their sugar come in in hogsheads or in bags, and, with the exception of animacules which exist in nearly all raw sugars, I have never heard, though I have made extensive inquiries, that an adulteration of 10 per cent. existed.

298. Your evidence in this respect is a matter of hearsay with regard to sugar?—Yes, and of practical knowledge myself.

299. *Chairman.*] It is stated that there is grape sugar frequently to be found in sugar?—I do not know what it is.

300. One of the witnesses stated that grape sugar had been found in 36 samples of sugar?—That is a positive proof, I think, that it must be an article found in the sugar itself.

301. What is the next article you wish to remark on?—Nutmegs. It was stated that wild nutmegs are invariably sold at shops for cultivated nutmegs, and the public who buy them in small quantities have very seldom an opportunity of knowing what is true and what is false. I have here samples of wild nutmegs and of cultivated nutmegs (*producing the same*). I think any one would be able to distinguish between them. I went to the largest spice dealer in London on Saturday last, and asked him what proportion of the wild nutmegs to the cultivated he sold. He said, "The proportion is so small that I can scarcely give you an idea." I said, "28 lbs. to a ton?" He said, "Certainly not so much as that; certainly not more than 14 lbs. of the wild to a ton of the cultivated.

302. What would be the price of those two descriptions?—The wild would be about 1*s.* 5*d.* a pound with 5*d.* duty, that is, 1*s.* 10*d.*; and the other would be 3*s.* 6*d.* with 1*s.* duty, which would be 4*s.* 6*d.*

303. Mr. *Gregson.*] You do not believe in a great importation of wild nutmegs?—I do not believe the evidence given by that witness. I think he has stated that which is not true. He has stated that wild nutmegs are invariably sold in the shops for true nutmegs. I may mention that it was from the house of Travers and Sons I made the inquiry; the result of which I have stated.

304. Mr. *Moffatt.*] Can you obtain a return of the amount of wild nutmegs and of cultivated nutmegs which have paid duty in the course of the last year or two years?—I will do so.

305. *Chairman.*] What is the next article you have to speak of?—The next is the article of coffee. It has been given in evidence before the Committee that a mixture of chicory and coffee exists to a very large extent. I am not here to deny that a mixture of chicory and coffee is sold; but to affirm that according to my experience for the last ten or fifteen years, the public prefer an admixture of chicory and coffee to pure coffee.

306. In what proportions do the public prefer an admixture of chicory with coffee, to pure coffee?—One-fourth of chicory to three-fourths of coffee is the mixture which the public generally approve of.

307. Mr. *Moffatt.*] Does not that depend upon the particular quality of the coffee; will not some coffees take more chicory advantageously than others?—Decidedly.

308. You cannot therefore lay down a general rule with respect to what is the most advantageous mixture for the consumer?—A person using chicory, if he understood his business, would use a finer coffee than he could use if he were to sell pure coffee, that is, presuming he sold the two at the same price.

309. Mr. *Peacocke.*] How much is chicory worth?—Nearly 3*d.* a pound.

310. What is the price of the coffee you speak of?—From 52*s.* to 120*s.* per cwt. The lowest price of Ceylon coffee now would be 1*s.* 0½*d.* a pound roasted.

311. Is not there a great temptation therefore to take a large proportion of that which costs 3*d.* to mix with that which costs 1*s.*?—I admit there is a temptation.

312. *Chairman.*] Do you believe that that is commonly done?—A man who is in business for the purpose of fraud, will commit a fraud with respect to any article, and a person who is in business for honest purposes, has no particular reason to carry out fraud in any.

313. Does not the mixture give facilities to a man to commit fraud?—Yes, if he is dishonestly disposed. I contend that if I mix chicory and coffee, and sell it at 10*d.* a lb., which I do in very large quantities, I am giving the poor a decidedly better article than I could give them at 1*s.* 3*d.* a lb. with pure coffee. Supposing I were to say, I will put one ounce of chicory to coffee,

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costing me 1 *s.* per lb., I might put three ounces to a coffee which costs 1 *s.* 6 *d.* per lb., and give a decidedly better article, although the latter mixture would have a larger proportion of chicory than the former.

314. Lord *C. Hamilton.*] Do you ever state the proportions to the purchaser?—No; and it would be very fallacious unless coffee was all at one price.

315. *Chairman.*] Would it be foolish, supposing you were to put 50 per cent. of chicory into your coffee, to say so; would a person purchasing coffee with 50 per cent. of chicory in it, be led to believe that he was purchasing good coffee?—He would not be led to believe that he was purchasing pure coffee. A man who knows his business, would not put 50 per cent. of chicory with coffee.

316. Do you mean it is never done?—No; but it is the exception, and not the rule.

317. Mr. *Gregson.*] What is the advantage of the grocer mixing the two articles; would not it be better if persons bought a pound of coffee and a pound of chicory separately, and mixed them as they pleased?—The Committee is aware that during the administration of Lord Derby there was a prohibition to sell the mixture, and coffee and chicory were sold separately. During the short time that that was in operation, I had more fault found with my coffee, and more coffee returned, than during 10 years besides I had been in business. I gave every opportunity to the public to grind the coffee for themselves, inasmuch as I purchased mills at 1 *s.* 5 ½ *d.* each and sold them at 1 *s.* 6 *d.* They bought the coffee whole, and the chicory in a powdered state, and after having tried it, they returned the mills and asked me to take them back at half price, and give them the chicory and coffee as formerly mixed. I told them I could not do so on account of the present arrangement, and many of them left off drinking coffee. They said, if we cannot have coffee mixed for us as we used to have, we will discontinue the use of it.

318. If you sold coffee and chicory both ready to be mixed, would not that be advantageous?—The public say it is not.

319. Has it ever been offered to them?—Yes; and further than that, I took the trouble to put the question to my customers, will you have chicory and coffee mixed, or will you have coffee; 75 or 80 per cent. of the public required the mixture, and refused the pure coffee. That was because for 1 *s.* they can get a coffee which suits their palate better than the pure coffee which you can supply them with at 1 *s.* 8 *d.* Some years ago a young man who had been in the business, went out of the business and went into another line of trade, and he came to me and said, I have some customers whom I should like to retain, and I am willing to divide the profit with you, if you have no objection. I said, if you will bring me the orders I do not object to divide the profit. They were satisfied with all the goods I sold them except coffee; this was before I used chicory; constant complaints were made of the coffee. He said he was very sorry to leave me, but unless I could supply him with the coffee he had been used to he must leave me. I gave him coffee at 1 *s.* 4 *d.* which cost me 1 *s.* 8 *d.*, and that did not give satisfaction. I then sent for 6lbs. of chicory for the first time in my life, and mixed the proportions which he stated, and I never had any complaints from those parties afterwards. Take the finest coffee you can produce, if you give it to the public who have been accustomed to use chicory with their coffee, they will be dissatisfied with it.

320. Mr. *Peacocke.*] Is there any objection to your mixing it, telling the purchasers that they are buying a mixture?—That I see no objection to.

321. Mr. *Gregson.*] Do you label the proportions which you use?—No. Here is one of my papers. The mixture is not only sold in a marked paper, but a differently coloured paper.

322. You consider that you sell more coffee and chicory mixed, with these labels, than pure coffee?—I sell ten times as much of the mixture as I do pure coffee.

323. Mr. *Moffatt.*] It is the custom of the retail trade, is it not, to sell the mixture in a paper of that colour and pure coffee in white paper?—It is.

324. Lord *C. Hamilton.*] When a customer asks for coffee, do you give him the mixture?—If a person comes in and asks for a pound of 1 *s.* coffee, we know he wants the mixture, because we do not sell pure coffee under 1 *s.* 2 *d.* a pound.

325. The customer knows that he will, for his 1 *s.*, receive coffee and chicory?—Yes, most unquestionably. I published a circular respecting this

mixture

mixture in 1853, which I beg to put in. And with respect to canister coffee, I have the canister stamped on the lid and at the bottom, with the words "This is sold as a mixture of chicory and coffee," so that there can be no deception.

326. Viscount *Goderich.*] If you were to go into a shop and ask for pure coffee, do you think it would be right that chicory and coffee should be sold you without your being told it was a mixture?—That would be decidedly wrong, and, I believe, under existing arrangements, it would be very difficult to do so. I presume a tradesman is justified in giving that which he believes will give the greatest satisfaction to his customers. I think if a purchaser goes into a shop and requests to have pure coffee, and he has a mixture given him in a plain paper without a label, it is a fraud.

327. Suppose he simply asks for "coffee"?—I think the onus should lie with the purchaser. Knowing, as I do, that from 70 to 80 per cent. of the customers require the mixture when they ask for coffee, it is not too much to require the remainder to ask for pure coffee when they require it.

328. Mr. *Gregson.*] You do not state the proportions of the coffee and chicory upon your label?—No; supposing I choose to mix chicory with coffee which costs me 1 *s.* 6 *d.*, and another trader chooses to use coffee which costs him 1 *s.*, the proportions would be no test of the quality of the mixture. Any attempt to compel the dealer to state the proportions must fail, as it would be utterly impracticable. For instance, suppose the maximum of chicory should be fixed at 25 per cent., an excess of one or two per cent. must be made punishable, and what trader would be secure; or how would it be possible in mixing 84 lbs. of coffee and 28 lbs. of chicory to ensure a perfect uniformity throughout; or by what means, analytical or microscopical, can the proportions within one, two, or five per cent. be ascertained? No trader would ever be safe; for although the most scrupulous exactness might be exercised in weighing the proportions, they might be so disturbed in mixing and grinding that the dealer might be liable to punishment every day for an excess of per centage of chicory in some portions of the hundredweight, while other portions of the same hundred weight might be deficient. In fact, it appears to me, that the present compulsory labelling of the "mixture" will be quite sufficient to ensure the public being able to obtain genuine coffee whenever they wish it.

329. Do not you know when you mix it what the coffee costs you?—Yes, but unless I could make every coffee cost the same amount, it would be fallacious.

330. *Chairman.*] You say the test of proportion would be fallacious, to a certain point, where the chicory amounts only to 15 or 25 per cent., but supposing a man put in 50 per cent., and you compelled him, if he did so, to mark it upon his label, would it be fallacious?—I do not think the Committee or the Government ought to interfere with the price obtained for coffee any more than in the case of tea. If I buy tea at 1 *s.* 2 *d.* a pound, the Government would not think it right to compel me to sell that tea at a certain price; the public must be the judges of whether they will buy it or not.

331. But the public cannot judge of the quantity of chicory contained in the coffee?—They can judge whether it suits their palates or not. Competition, I think, would always protect the purchaser, so long as the purchaser knows what he is buying. When permission was given to use coffee and chicory mixed, and sell it as such, I published this notice (*producing the same*), which I put into the window of my shop. What I contend is, that the present arrangement of selling a mixture, plainly labelled as a mixture, is a great benefit to the public. The majority of the public prefer the mixture to the pure article. Supposing the use of chicory were done away with, the public would not be able to purchase coffee for less than 1 *s.* 3 *d.* to 1 *s.* 4 *d.* a pound, and that of the lowest description; and one ounce of that coffee would not yield them half so good a beverage as one ounce of the mixture now sold at 1 *s.* a pound.

332. You object to let them mix it for themselves, because they will not do it?—Practically they will not.

333. Lord *C. Hamilton.*] You say, in the first place, they do not like the pure article, but they prefer the mixture?—Most decidedly.

334. Mr. *Peacocke.*] They would regret the absence of the chicory?—Decidedly so. A great deal of the evidence which has been given here is only theoretical; now mine is practical.

335. Can you state what the practice of your neighbours is with regard to the proportions they use; have they found the same proportion which you

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select to suit the public taste?—They say one-fourth is a good proportion, and if a larger proportion were used they would lose their custom; but I do not think it would be wrong for a man to use a larger proportion. Supposing he chose to use half and half, and sold it at a proportionate price, chicory being a wholesome article, I do not think there would be any harm in that. If I went and bought common tea at 1 *s.* a pound, and charged 7 *s.* a pound, you would not prohibit me from charging so much for the tea; you would say my customers would soon find it out, and they would not give me 7 *s.* when they could buy the same tea at other shops at 3 *s.* 6 *d.* a pound. I have never heard any complaint from the public against the use of chicory and coffee; on the contrary, I have had very many and great complaints when chicory was prohibited. Another thing is, that when it was prohibited, there were persons who would sell it, notwithstanding the prohibition. I had a coffee-shop keeper who came to me and said, "You used to supply me with a mixture of chicory and coffee; why cannot you do it now?" I said, "I cannot do it by law." I gave him the proportions, and told him how to mix it. He said, "I cannot do it as you did; it is not nearly so good;" and after finding fault several times, he said, "I have found out a man who says he will sell me the mixture if you refuse, and I must leave you unless you will supply me with what I require."

336. Is there any skill required in mixing chicory with coffee?—There is a volatile oil in coffee which flies off on its being ground, and there is an absorbent in chicory which absorbs that oil; if you grind chicory and coffee together you find that not nearly so much aroma flies about as if you are grinding pure coffee, and I believe if it were possible to separate the two you would find, after they had been ground together, the chicory had absorbed a large quantity of the essential oil of the coffee, which would otherwise have flown off in the grinding. Any one may convince himself of this fact by observing a packet of genuine ground coffee, which has been allowed to remain unopened one or two days, in which case the paper will be found to present an oily appearance, occasioned by the absorption of the oil of the coffee by the paper. The oil of the coffee has a strong tendency to turn rancid, which tendency, chicory, by its powers of absorption, will to a great extent prevent. The finest coffee that could be procured, would, if left ground for a fortnight, be entirely spoiled; while a "mixture of chicory and coffee" will be found comparatively fresh at the end of three months.

337. Lord *C. Hamilton.*] Is it the usual practice in the trade to grind the two together?—Yes; it is the practice of those who know their business.

338. Mr. *Moffatt.*] Will you inform the Committee whether the views you have stated in regard to the public preferring coffee mixed with chicory and rejecting coffee when sold pure, are confined to your own experience, or is it the general experience of the grocers of London, so far as you are acquainted with them?—It is the general experience of the trade, with the exception of a few at the West End, who get a high price for their coffee. The general experience of grocers is, that from 70 to 80 per cent. of the public, at least, prefer the mixture to pure coffee.

339. And your acquaintance with grocers in all parts is extensive?—I have had communication with many thousands in London and the country.

340. The result of those communications leads you to the conclusion that their experience is the same as yours in that respect?—Yes; I would venture to assert that supposing two shops were opened in a street, and one man were to sell the finest Mocha coffee at 1 *s.* a pound, and another were to sell the mixture at 1 *s.* a pound, the man who sold the mixture would get a majority of the custom. I have stated these facts because I think the Committee have not had the evidence before them hitherto that the public are in favour of the mixture, because they get a decidedly better coffee at 1 *s.*, with chicory, than they could possibly obtain without chicory. Many poor people buy an ounce of coffee, perhaps, just before breakfast; if we were to sell them half an ounce of coffee, and ask them to buy a quarter of an ounce of chicory, they would not do it. It is well known the less such a class of people are compelled to do for themselves, the better they like it.

Veneris, 29° die Februarii, 1856.

MEMBERS PRESENT.

Mr. Moffatt.	Mr. Alderman Cubitt.
Mr. Wise.	Mr. Knight.
Mr. Sheridan.	Viscount Goderich.
Mr. Kinnaird.	Mr. Peacocke.
Lord Claud Hamilton.	Mr. Cowper.

WILLIAM SCHOLEFIELD, Esq., IN THE CHAIR.

Waller Lewis, M.B., Esq., called in; and Examined.

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341. *Chairman.*] I BELIEVE you are in the service of the Post Office, as a medical officer?—I am.

342. Some time ago, did you go abroad at the instance of the Government, for the purpose of making inquiry into certain questions connected with the public health?—I did.

343. Will you state to the Committee when and where you went, and the result of your investigations, especially with reference to the subject of adulterations of food, drinks, and drugs?—My instructions from the Secretary of State were, to visit Paris, and put myself in correspondence with the Home Minister there, Monsieur Billault, from whom I had introductions to Monsieur Trebuchet, and to Monsieur Collet-Meygret, the director-general of police, under whose special department the sanitary law in France is. I had every opportunity afforded me there of visiting the different establishments where the public health is attended to by police measures; and, on the whole, it was extremely satisfactory. The result of my investigations was published in a Blue Book last year, under the title of "Report on Laws and Ordonnances in force in France for regulating noxious Trades and Occupations." The result was that a great deal which is done in France, in my opinion, might be imitated here, though, from the different circumstances of the two countries, there may be a great deal of interference there which I think would not be permitted here; but, generally, unwholesome trades are carried on there with far less injurious influence on the health of the public and the neighbours than is the case here. It is well known that the slaughter-houses are very much better managed there, there being public abattoirs established; whereas, in this country we hear of a great deal of disease induced in the neighbourhood from noxious emanations, arising from slaughter-houses; in France, from all the inquiries which I made, there is nothing of the sort.

344. While you were in France, did you make any inquiry into the custom of the police in superintending articles of food, ascertaining whether they are adulterated or not, and preventing and punishing adulteration?—I did; in fact, I was daily in communication with M. Trebuchet, who is the Chef de Salubrité Publique, and has for many years been charged with the carrying out of all those measures.

345. What are the special duties, as far as you ascertained them, of the Chef de Salubrité Publique?—There are two Conseils in France, which between them regulate, under the Préfect of Police, all matters relating to the public health. One Board is called the Conseil de Salubrité Publique, and the other the Conseil de Santé Publique.

346. What is the distinction which exists between them?—The Conseil de Salubrité Publique has more superintendence over measures affecting the public health, hygiene measures. The Conseil de Santé Publique is a department which meets at the Hotel de Ville under the Préfet de la Seine, and takes up, as I understand, more particularly questions relating to the adulteration of food.

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347. In reference to the action of that body, the Conseil de Santé Publique, can you inform the Committee what measures they adopt for the prevention and punishment of adulteration?—I have noted some of them down for the information of the Committee. There have been many Ordonnances of Police, beginning, I think, in the early part of this century, to prevent adulterations of food. Those have been changed, and superseded by fresh ordonnances, till the last one, which is dated March 1851. It bears date the three days of the 14th, 15th, and 17th of March 1851. This is the last ordonnance, repealing all others.

348. Under what authority is a police ordonnance issued?—Under the authority of the Minister and the Préfet de Police, countersigned by the First Minister of State. Every ordonnance of police is law. It is printed and signed by the Chef de Police, countersigned, I think, by the First Minister, and it is ordered to be printed, and the mayors of the different arrondissements have orders in the last paragraph to see to the carrying out of the ordonnance, whatever it may be.

349. It is not a law which passes the Chambers?—No; I think that is not required at all.

350. It is a municipal law, requiring the signature of a Minister of State?—That is all. The first article begins, "Those shall be punished according to Article 423 of the penal code, first, who adulterate articles of food or medicine; secondly, who sell or expose for sale such as they know to be adulterated,—*falsifiées* is the French term; thirdly, those who deceive or attempt to deceive as to the weight or measure of articles of food, either by using false weights and measures, or inexact instruments, or by any manœuvre falsifying the operation of weighing or measuring. Article 2: if the adulteration is caused by substances noxious to health, the fine shall vary from 50 to 500 francs, and imprisonment from three months to two years. This article is also applicable even in case of the adulteration being known to the purchaser or consumer. It is not allowed to be adulterated even with their sanction, as it were. Article 3: a fine varying from 16 to 25 francs, and imprisonment from six to ten days, or one of those two punishments only, according to circumstances, shall be incurred by those who, without legitimate reasons, shall have in their houses or shops, or in the markets or fairs, false weights or measures, or improper instruments for weighing or measuring, or who have on their premises for sale articles of food or medicine which they know to be adulterated or decomposed. If the substance so adulterated is noxious to health, the fine may be increased to 50 francs, and the imprisonment to 15 days. Article 4, if the accused found guilty of the above infractions of the law shall have been condemned on a similar infraction during the preceding five years, the punishment may be doubled, and the fine may even be raised to 1,000 francs. By Article 5, adulterated substances shall be confiscated. If they are fit for alimentary or medicinal use, the Tribunal may place them at the disposal of charitable establishments. If unfit, they shall be destroyed, or thrown away at the expense of the guilty person. The Tribunal may order the destruction or effusion before the domicile of the guilty person. The last article is, that the Tribunal may order the publication of the judgment pronounced, in whatever places it thinks fit, in the vicinity of the infractor's own house, for example, and the insertion thereof in the newspapers, all at the expense of the accused person." That is a short summary of the present laws upon the subject of adulteration, superseding all previous ordonnances.

351. Do you know what is the manner in which that law is put into practical operation; by whom are the adulterations in the first instance discovered, and what course is adopted for the purpose of bringing them under the notice of the authorities?—I believe there is a Board of scientific men attached to this Conseil de Santé Publique; any person buying articles of food or medicine which are suspected to be adulterated may bring them for examination to this Board; the police may then visit the shop of the person who is said to have sold these things, seize the articles, and take them away. There are, however, certain establishments which the police visit constantly without any cause of suspicion of adulteration whatever being brought to their notice.

352. Mr.

352. Mr. *Wise.*] With respect to the Conseil de Salubrité Publique, have not you heard that the Council is composed of the Préfect himself, 12 members chosen from the first chemists in Paris, five gentlemen, called adjuncts, who are all first-rate men in Paris, as well as 12 members who are called honorary members?—Yes.

353. You have stated that any person may complain of an article purchased by him?—Yes, so I understood.

354. Have you not also heard that the Conseil de Salubrité have inspectors specially appointed for the examination of articles?—They have.

355. It was represented to me when in Paris, that the parties themselves could not complain, but that these inspectors go about and investigate the articles sold in different shops, and themselves report to the Conseil de Salubrité, and take the necessary steps to punish the parties?—I believe that is the case generally, but there is a way also in which, either directly or indirectly, the public themselves may address the Conseil de Salubrité; it may be done through the inspectors.

356. Did you ever see an inspector visit a wine-shop?—No; but I have seen some wine which has been thrown away because it was not good.

357. Was it not thrown into the Seine?—Yes.

358. Did you hear anything of the course which is pursued by the Council with regard to bread?—That did not come particularly before me.

359. You are aware, that in France, there is an assize of bread?—There is.

360. Did you hear whether that assize has a beneficial effect upon the character of the bread?—It is very much approved of in France; I believe more in Paris than in the provinces. When I was there last there was an assize for the first time put upon meat.

361. You are aware that the bakers in Paris are under the control of the Executive?—Yes; every fortnight the price of bread is fixed.

362. Viscount *Goderich.*] When you spoke in answer to the honourable gentleman of the Conseil de Salubrité, did you mean the Conseil de Salubrité, or the Conseil de Santé Publique?—I think all such matters are under the Conseil de Santé Publique.

363. Mr. *Peacocke.*] You have been speaking of those Conseils as existing in Paris; do they exist in the provinces also?—No; there are Conseils de Salubrité in the provinces, but they do not take up these questions relating to the adulteration of food. In one of the last reports of the Conseil de Santé they expressed a wish to the Minister of Police that those regulations should be extended from Paris to the provinces; for instance, in the case of sweetmeats, they are very well made in Paris for consumption in the capital, but a vast quantity of sweetmeats coloured with poisonous and noxious substances are made in Paris, and sold in the provinces, and there they can be retailed, because this law does not extend to the provinces. The committee who examined this subject recommended that the law should be made to extend to the provinces.

364. You have said that this power is conferred not by a law, but by ordonnances of the police. Does not the code entrust such sanitary powers to the police?—It does.

365. Therefore the code contains the law, the powers may be said to be given under it?—Yes.

366. *Chairman.*] Do you know what the regulations are in France with regard to sweetmeats?—Yes, I have a statement of them with me. The law begins by saying that there must be an ordonnance relating to cheap confectionery, much of which is now rendered noxious by the habitual employment of certain poisonous substances for colouring it; among the substances so used pointed out as noxious are Scheele's green, chrome yellow, minium, and red lead; and it goes on to say, that fatal accidents have sometimes been caused by these toxical agents. This ordonnance of police is dated the 22d of September 1841: it concerns liqueurs, bon-bons, lozenges, and so on. The first article is, "no mineral substances shall be used in making or colouring sweetmeats, except Prussian blue and pure ultramarine." The second article is, "No paper for wrapping bon-bons must be coloured with any other mineral substances than the above two," because children frequently put the papers in their mouths. Thirdly, "No fulminating preparation must be used in envelopes of bon-bons." Fourthly, "All

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"All pastrycooks and other dealers who sell bon-bons must wrap them in paper bearing their names and addresses upon them, so that they can be traced." Fifthly, "The makers and dealers shall be personally responsible for the accidents caused by the bon-bons they make or sell;" and, lastly, annual visits are to be made to the shops of the makers and retail dealers in bon-bons, to certify whether they carry out properly these orders.

367. Can you speak of your own knowledge of the result of those laws upon the condition of the food sold in Paris as to its purity; are you aware whether the bread and other things sold in Paris are relatively purer than they are to be met with in this country?—I resided a great deal in Paris and in the provinces, and it is a question I very frequently asked, and certainly from the answers to the questions which I so constantly put, as well as from my own experience, I think in the capital undoubtedly there is a great deal less adulteration than there is here. Partly from the political institutions of France, and partly because they are accustomed to it, I did not find that the tradesmen themselves complain of those domiciliary visits. Certainly, in the different noxious occupations which are pursued, I was very much surprised to find that the manufacturers rather liked those visits than otherwise. When I went with M. Trebuchet he was everywhere received with the greatest pleasure; of course, a great deal of that depends upon the *suaviter in modo* with which it is carried out.

368. Is it your opinion that, without resorting to the stringent system of domiciliary visits adopted in France, some system might be adopted in this country which would prevent adulteration to a great extent, consistently with the laws to which we are accustomed, which are more free, and of a less oppressive character?—I think it might be. I think a great deal of good might be done. I have no doubt that a Board, in some degree analogous to the Conseil de Santé Publique, might work along with the General Board of Health in this country: I think that a very proper department for such a subject to be managed by. I think the great improvements which have been made in the use of the microscope within the last few years, and the researches which have been made by means of it, give us now the facility of carrying out such investigations with a certainty which a few years before did not exist, and that without hardship to any party.

369. Would you propose that the Conseil de Santé should act for the whole country, or that in the provinces there should be distinct councils appointed?—I think it should be a central Board.

370. On the ground, perhaps, that you would hardly find in country districts men of sufficient scientific attainments?—Yes; and the means of communication are now so easy between the capital and the provinces, that one Board could readily do the whole of the work. There is scarcely any article in this country which is not adulterated. In the public-houses, for example, a very large quantity of liquid is sold as port and sherry wine, which has not an atom of wine in it. A large quantity of yellow substance is sold as mustard, which has no mustard seed in it, and so on with a great number of articles; not only are they adulterated, but there is frequently none of the article itself in the substance which represents it.

371. Lord *C. Hamilton.*] Do you mean that you would have no local Boards in the provinces under the Central Board?—I think that might be placed under the Municipal Boards which exist in the different county towns. Where there is a local Board of Health, I think such a Board being already in correspondence with the Central Board would be a very good body to refer those subjects to primarily.

372. Mr. *Peacocke.*] You have given the Committee your definition of the Conseil de Salubrité Publique, and also your definition of the Conseil de Santé Publique. According to your description, what we want most here is the Conseil de Santé, because the Conseil de Salubrité is very like our Board of Health, whereas we have nothing answering to the Conseil de Santé Publique?—We have nothing of that kind at all.

373. But we have the Conseil de Salubrité in the Board of Health?—The Board of Health has no power in London. In France the Conseil de Salubrité Publique exists almost entirely for the capital.

374. Those hygienic subjects which come under the Conseil de Salubrité are precisely such as come under the Board of Health, whereas what you want to establish

establish is rather a Board representing the Conseil de Santé Publique?—Yes; but I think it should be a department of the General Board of Health.

375. That is what is most wanted?—Yes, on these subjects.

376. Mr. *Knight.*] Do you propose that this council should have any sort of authority, or that it should be called on only to pronounce an opinion as to whether an article was adulterated or not?—The Conseil de Santé Publique has no power except that of making recommendations to the Minister, but the Minister in almost every instance carries out the recommendation of this Conseil to a great extent. The Minister has no knowledge on the subject himself, but leaves it to the Conseils to draw up regulations concerning the adulteration of food; he only acts upon the recommendations of this body. When a new ordonnance is published, it is generally prefaced by the recommendations made to the Minister by this body. It begins, "Whereas it has been represented to us by our Conseil de Santé Publique that such and such articles of food are constantly adulterated, and it has been recommended, so and so; we, therefore, ordain that in future," &c.

377. Do not you think it would be quite sufficient if in England there were a body which could give legal evidence that such and such an article was adulterated, leaving the complaining public to right themselves without the council making any recommendations at all?—I do not think that would be sufficient. I think there are many subjects in this country as to which people are not able to help themselves, and I think that something more should be done for them. This I take to be one of such subjects.

378. There must of course be a penalty attached to the selling of certain adulterated articles, but what is most wanted is some legal evidence of the adulteration; is not that so?—If the law were altered, so that some summary punishment could be inflicted upon those who have adulterated, after proof given of the adulteration, that would be enough, perhaps; but there is no law now to punish adulteration.

379. Mr. *Wise.*] Except in the case of flour?—Except in the case of flour.

380. Mr. *Knight.*] That would introduce no kind of police regulation?—No.

381. Lord *C. Hamilton.*] Do you think that a central Board could act efficiently without some local machinery?—I do not think they could act without there being in the country corresponding Boards; but I think all the analyses could be made in the capital.

382. I understood you to say that in France there is rather a wish to extend the supervision which exists in Paris to the provinces?—There is.

383. Can you state to the Committee in what way it is proposed to organise the council for the provinces?—The report of the committee prefixed to the ordonnance which I have just read on sweetmeats, complains of the fact which I have mentioned, that though sweetmeats are perfectly good in the capital, they are bad in the provinces, and it recommends the Minister to extend the laws just as they are to the provinces; that, in fact, there should be a local Board in other towns besides Paris.

384. Have you ever resided in any of the provincial towns in France, so as to be able to judge whether the sweetmeats and groceries sold there are much inferior to those in Paris?—I have resided there, but I was much younger at that time, and did not pay the attention to such subjects which I should now.

385. Do you happen to know from hearsay whether it is the case that the groceries and sweetmeats sold in the other large towns in France are inferior to those in Paris?—I have heard constantly that they are inferior to those in Paris, from the want of inspection which exists in the provinces.

386. Mr. *Wise.*] With regard to the definition to be adopted of the term "adulteration," suppose, for instance, that a case of alleged adulteration were brought before the Council of Health, would you have them consider it both in relation to its being a commercial fraud and also in relation to its effect upon health, or which course would you have them take?—By the French Ordonnance, dated 1851, the Committee will see both kinds of adulteration are punished, but there is a greater punishment, both in the shape of fine and imprisonment, inflicted where the adulteration is one which is noxious to health. Adulteration, falsification, extends not only to increasing the bulk of the article by adding to it an inferior article, but even giving false weight, so that the

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the commercial question is equally looked at, but the punishment is much more severe where the adulteration is with an article noxious to health.

387. Would it not be the most simple course to legislate upon the principle that nothing should be sold different to what it is stated to be; and that no mixed article should be sold, without the vendor stating the character of the mixture at the time of sale?—I think that would be a very simple course, and very much in accordance with our simple legislation of non-interference, if you could carry it out.

388. An adulteration of food is very extensively practised, which is not injurious to health; and it would probably be very difficult for any Conseil de Salubrité to determine in such cases what course should be taken?—Such a case would be the constant adulteration of butter with lard; it is not noxious to health, but it is a great deception, of course.

389. Do you think that the proposed Council of Health could undertake to prosecute a party for mixing articles which were not injurious to health?—Yes, I think they might.

390. Upon what ground?—Merely upon a commercial ground, that it was a fraud.

391. The Board of Health could not interfere very properly with mere commercial frauds, could they?—That is on the assumption that the Board of Health should interfere with nothing which had not a strict relation to health. I do not see that that should be a hindrance to carrying out a project of this kind.

Professor *John Thomas Quekett*, called in; and Examined.

Professor *J. T. Quekett*.

392. *Chairman.*] YOU are a Professor in the Royal College of Surgeons?—I am.

393. I need not ask you whether you are intimately acquainted with the subject of drugs and medicines; at all events you have turned your attention, to some extent, though not, I believe, as a subject of constant occupation, to the question of adulteration, have you not?—I have.

394. Articles adulterated have been, from time to time, submitted to your examination and analysis, and you have formed some opinion upon them?—Yes.

395. Will you favour the Committee with your views as to the extent to which adulteration is practised, and the articles on which it is most generally practised?—I may state that my observations have been principally directed to articles sent to me by medical men in London and different parts of the country. One thing which I examined about four or five years ago was milk; I have made many examinations of milk.

396. What has been the result of your examinations?—About five or six years ago I investigated one case in which nervous matter formed the sediment; but I may say that since that time I have not been able to detect anything of the kind. I can show the Committee a drawing taken at the time (*producing the same*).

397. In that milk there was a large admixture of what you called calves' brains?—There was; these (*producing the same*) are accurate drawings of cows' milk, consisting of globules of fatty matter, but no admixture of such a structure as you observe in the other drawing.

398. If I understand you rightly, that examination took place five or six years ago?—It did.

399. Have you had any samples of milk submitted to you since that time?—Several.

400. With what result?—I have never been able to detect any solid precipitate; when the milk was very poor those oily globules were very small; since 1850 I have seen no deposit whatever.

401. The only adulteration you have detected in milk since that time has been the not uncommon one of the mixture of water with the milk?—Exactly so.

402. Mr. *Wise.*] You have no reason to believe that milk is largely adulterated in London except from the pump?—No. I have often had milk submitted to me by wet nurses, in order that its richness might be tested.

403. It has been currently reported that sheeps' brains are largely used in milk; is that correct?—I do not think that has been done lately.

404. Is there any other article that you have examined?—I have often examined coffee. I lived for many years next door to a large chicory manufactory, and I soon found out the difference between chicory and coffee.

405. What has been the result of your investigations?—Up to a recent period, chicory could be almost always detected in the cheap kinds of coffee.

406. You are aware that coffee, if mixed with chicory, is now sold as a mixture?—Yes.

407. Have you ever purchased or seen a sample of coffee, called pure coffee, which was mixed with chicory?—No, I cannot say that I have.

408. Is chicory the only admixture you have observed?—I have detected beans and matters of that kind.

409. In large proportions?—Not in very large proportions; but I should state that I have not been officially employed in this way. The articles I have examined have been sent to me principally by medical men. I have been appealed to occasionally by grocers; but what I have done has been principally to keep them out of law, showing them that they were in error.

410. One reason why the Committee are desirous of asking for information from you is, that we are led to believe that you have not formed any strong views in reference to the prevalence of adulteration generally?—My knowledge arises chiefly from my acquaintance with structure; I have for many years employed the microscope. and it is from a knowledge of animal and vegetable structures that I can detect adulteration.

411. Is there any other article of food to which you have directed your attention; have you ever had any bread submitted to you?—Yes, I have examined bread.

412. What has been the result of that examination?—I have found it adulterated with potato starch and bean starch.

413. To a large extent?—Yes; on two occasions very largely.

414. Have you found alum?—You cannot recognise that very well by the microscope.

415. The detection of that must be the result rather of chemical analysis?—Yes.

416. Mr. *Wise.*] Can you suggest to the Committee any simple mode of testing the purity of bread?—I can only speak of it microscopically, not chemically. The only way in which it can be done is by a person who is well acquainted with different kinds of starch.

417. Mr. *Sheridan.*] Did I understand you rightly to say you had been consulted by grocers simply to know how far they might go in adulteration?—No; they brought me samples, and I wished merely to point out to them that they were in error; that their goods were adulterated.

418. Was that with the object of ascertaining what substance they contained?—I believe it was with the object of bringing an action against the Sanitary Commission for the papers published by them in the "Lancet."

419. *Chairman.*] Are you aware of any action ever being brought against the "Lancet" for the publication of statements of the kind?—No.

420. Have you ever examined beer or porter?—I have not done so very carefully.

421. Can you speak from your own knowledge, as a consumer, of any adulterations which have come under your notice?—I have known men taken ill from drinking a particular kind of porter.

422. Had you reason to suppose, from the symptoms of the disorder, that it arose from the adulteration?—Yes; I believe it arose from the adulteration.

423. What do you suppose the nature of the adulteration to have been?—Some mineral substance, which I could crystallize; probably sulphate of copper.

424. Do you know anything respecting the adulteration of drugs?—Very little. I have examined a great number of drugs, such as barks and things of that kind, in reference to their structure, not with any view to their being adulterated.

425. Mr. *Peacocke.*] Has cream ever come under your cognizance?—In the case of milk.

426. Is that much adulterated?—No; you can generally distinguish the cream from any foreign matter; it is an accumulation of large oily particles, and if there were any solid substance mixed with it, you could detect it.

427. Is tobacco adulterated?—I have examined sections of the tobacco plant and leaf.

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428. Not made up?—No, not made up.

429. Lord *C. Hamilton.*] Have you never turned your attention to the subject, with the view of knowing what the practice of traders generally is?—No; principally to assist medical men. I know the structure of most animal and vegetable substances, and can recognise any foreign matter which may be introduced.

430. You have not examined specimens of milk taken from populous neighbourhoods?—No, with the exception of London.

431. Would not it be the case that the diseased state of the cow would produce those appearances which you have described?—No; there is something so peculiar in nervous tissue that a practised eye can hardly fail in detecting it.

432. Viscount *Goderich.*] You said that in the case of those persons who brought matter to you to analyse, with a view of proceeding against the "Lancet," you were obliged to inform them that the articles were adulterated?—Yes.

433. Mr. *Sheridan.*] In fact, you confirmed the opinion which had been given in the "Lancet?"—As far as the microscopic test was concerned.

Lewis Thompson, Esq., called in; and Examined.

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434. *Chairman.*] I BELIEVE you are by profession an Analytical Chemist?—I am a medical man also, a Member of the College of Surgeons, and a Licentiate of the Apothecaries' Company.

435. Do you practise as a medical man?—I do.

436. And also as an analytical chemist?—Yes.

437. I believe you have devoted a good deal of attention to the question of adulteration, especially in reference to bread, and to porter and beer?—I have paid attention to adulterations generally for some years; I have been called to do so as a part of my profession.

438. The Committee wish to call your attention, in the first instance, to the two articles I have named. With respect to the adulteration of bread, will you state to the Committee what your experience has been in the examination of that article of food?—In respect to bread, I have within the last eight months examined bread obtained at 78 different shops; I have, in fact, obtained other samples more recently; but I dare say they are from some of the other shops. In 78 cases, at all events, the shops have been different, and the samples have been procured for the most part by common people, not by myself; sometimes by workmen, and sometimes by their wives.

439. Were they purchased for the purpose of being examined?—Yes.

440. And sent for to the shops by yourself?—Yes; I wished to be very certain as to the authenticity of the samples. In all these cases I have no doubt alum had been added to the bread.

441. Lord *C. Hamilton.*] In the whole 78 cases?—I have no doubt of it; I found it quite impossible, however, to ascertain that fact chemically; that is to say, although alum had been added to the mixture of which the bread was made, when baked the bread contained no alum; there was no alum in the bread.

442. *Chairman.*] How do you arrive at the conclusion that it had originally contained alum?—Because I was able to find the constituents of alum in the whole of the bread.

443. What do you call the constituents of alum?—The constituents of alum are sulphuric acid, potash, and alumina, with water.

444. Those constituents you found in bread?—I did, but not combined; they are alum only when combined.

445. Mr. *Wise.*] How much alum have you found in a 4 lbs. loaf?—The supposed quantity might have varied from 20 grains to 30 on the average.

446. Would such a quantity as that be injurious to health if taken every day?—That quantity of alum swallowed would be unquestionably objectionable.

447. No one person eats 4 lbs. of bread a day?—No, nor in eating bread does he eat alum. There it is I think the Committee has been led away by erroneous statements.

448. The property of the alum exists, does it not?—No, the property of the alum is totally destroyed.

449. Mr.

449. Mr. *Peacocke.*] Should the constituent parts of alum be found in any of the legitimate component parts of bread?—Not properly speaking; the constituents of alum do not exist in wheat, and therefore they should not exist in wheat flour.

450. Nor in the yeast?—No, nor in the yeast. What I wish to observe is, that the finding of those things is no proof that alum has been contained in the bread, or mixed with it; they might be added separately; that is, I could add alumina to the flour; I could add sulphate of potash or bisulphate of potash to the flour; I should then have the constituents of alum, but I should not have added alum.

451. Viscount *Goderich.*] Do you think those substances had been added to the bread separately?—No; I have no doubt that alum had been added to the bread.

452. Lord *C. Hamilton.*] Would not the combination of great heat with moisture reduce the alum to those products which you have described?—No; it is the contact with the flour which does it.

453. Alum and wheat flour combined, being subjected to moisture and to heat, would produce the result which you have described?—Yes; but you would have no alum.

454. You would have the elements of the alum as changed in their appearance by the action of heat and moisture?—Yes; and their action upon the human system is also altered.

455. Therefore what you mean to say is, that you do not find alum in its true form, but you find those products to which it is reduced after being subjected to moisture and great heat?—There must be also the presence of the gluten.

456. Viscount *Goderich.*] Do you consider that in that decomposed state it is not injurious to health?—I should say not; alumina is quite insoluble, and bisulphate of potash would have a totally different effect to alumina. In fact, if it had any action at all, it would be that of a purgative; it would have no astringent action at all.

457. *Chairman.*] If instead of 10 or 20 grains, you found 50 grains or 75, what would your opinion be?—Fifty, or even 100 grains in a quartern loaf, I should think, would be totally decomposed.

458. And in that state you think it would be in no degree injurious to health?—We should then have to consider it as bisulphate of potash, a comparatively harmless agent, a substance which would certainly have very little action, and which I should suppose, as a medical man, would be rather beneficial than otherwise, especially with sedentary people.

459. Mr. *Wise.*] What do you conceive to be the object of putting alum into bread?—The object of the bakers I do not know; I can state what its effect is; its effect, by decomposing a portion of gluten, whitens the bread; it also renders the bread a little shorter, it breaks more easily; the glutinous matter being partially neutralised: the bread breaks more easily, and has a better appearance; but the beneficial action of alum upon bread is this, it prevents mouldiness. If you bake a loaf without alum, in consequence of the gluten remaining undecomposed, it sooner becomes mouldy in a damp situation. If you put a small quantity of alum into it, you can keep your bread in a damp place without the risk of it becoming mouldy.

460. Have you tried the difference between bread made with alum and without?—Yes; it is a well-known fact that alum is continually put into the common paste which printers use, to prevent its becoming mouldy.

461. You believe that the application of alum to flour has the effect of whitening bad or dirty flour?—I think it whitens any flour.

462. *Chairman.*] In that case, inferior flour may be passed off as superior flour simply by the admixture of alum?—The quality of the bread is improved, whatever be the kind of flour which is employed.

463. A person having a quantity of flour of a bad colour, may sell it for superior flour, and at a higher price, by mixing alum with it, in consequence of that alum making it white, and of a better appearance?—That would be so if you prevented the person who uses the better flour from adding alum too; but he would have the same power of raising the quality of his bread.

464. In fact a man may impose upon a purchaser by leading him to suppose that he is purchasing bread made of a better quality of flour than he is actually doing?—It has the effect of increasing apparently the value of the flour.

 465. Have

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465. Have you ever subjected any specimens to this test; have you macerated bread in water, and then tasted the water?—Yes.

466. Did you by that means detect the presence of alum?—No. I wish to observe, that in the evidence there are two modes of analysis stated, but I am convinced that the parties ought to have known better than to have given those modes. I wish, for example, to refer to Question No. 2123; you will there find a mode of detecting alum in bread described, which consists in macerating it in cold water, and then you are told that by adding ammonia to that water, you get a precipitate of alumina; the precipitate, however, need not necessarily be alumina; something more is required; and if you will allow me, I will show you that. I have here two solutions (*producing the same*); one contains alumina, and the other contains phosphate of lime dissolved in it, and I may remark, that phosphate of lime is a necessary constituent of flour, and if flour did not contain phosphate of lime, it would not be so well qualified for food as it is; it would not contain a very important element which is necessary to perfect the whole body, and it would not be so fit for food; one of the actions of alum is to render that phosphate of lime more soluble, and therefore I should feel inclined to suppose that it has in that respect a beneficial action. I cannot say at this moment which of these two is phosphate of lime, and which is alumina; this (*another bottle*) contains a solution of common ammonia; these fluids therefore really represent water in which bread has been steeped, except that, as I shall afterwards show, there is no alumina capable of being removed from the water by those means; if I now add an excess of ammonia to these, you will see that I shall get a precipitate which will be extremely alike in the two cases, so much so that it will be impossible for any person, by the eye, to say which is which; but I have a means of determining which is which, and that, by the evidence, you are not instructed in; you are not told anything about it. Now, a person who had obtained a precipitate, here says that is alumina; but it is necessary to use another test for that. In fact, a man who was a good chemist would not have used this test at all. However, having got into a dilemma of this kind, I can get out of it again, by ascertaining which is alumina; because now the precipitate you see here will be dissolved by a solution of potash, in the case of the alumina, but it will not in the case of the phosphate of lime; therefore I shall now be able to determine which is which. Having now added the solution of potash, I know this to be the alumina at once; for the precipitate has disappeared. The Committee will see that, upon adding the solution in the same way to the other, I shall have a precipitate which remains constant.

467. The object of your experiment is to show that the answer to this question in the evidence is utterly fallacious?—It is; and therefore I think, unless I am to suppose that the Report is incorrect, the person who gave that answer did not know how to analyse bread.

468. The witness was asked, "Can you suggest any simple means by which the public could detect alum in their bread?" and then he gives this as a simple means of doing it?—I think a person who understood the subject would not so have deceived the Committee; for at the best it is a deception of the Committee, and it is misleading the public. Something of the same kind will be found at Question No. 568.

469. Mr. *Peacocke*.] Cannot you, by the test of taste, after the maceration of the bread, detect the presence of alum in the water?—Certainly not; I have not been able to detect any alum in the water derived from the maceration of bread.

470. What amount of heat would it require in baking to expel the water from the alum?—If you will allow me, I will show you that immediately, because that has reference to another question of great importance. I only wish now to turn the attention of the Committee to No. 568, where there is a similar description of a mode of detecting alum in bread, which is liable to the same fallacy. The inference is, that there must have been a disposition to mislead the Committee, or else the person was not acquainted with the proper mode of detecting alum.

471. *Chairman*.] You dispute the conclusion at which the Witness arrives?—Yes. The Committee will find at No. 536 an assertion which, I think, must also be incorrect, and I wish to show that it is so. I can show that at the mere heat of boiling water, alum ceases to be a solid.

472. Mr.

472. Mr. *Peacocke.*] By the application of an amount of heat sufficient to withdraw all the water from the alum, would not the loaf be burnt to a cinder? —The question I understand to be, whether a temperature which would destroy the crystallisation of the alum, would not be high enough to char the vegetable matter of the bread.

473. In the ordinary process of baking, would the water be wholly expelled from the alum?—The whole of the water would not be expelled from the alum at that temperature.

474. Mr. *Moffatt.*] Then the alum would still remain in the form of a crystal in the ordinary process of baking?—No, it would not be a crystal. I have actually put crystals of alum into different parts of a loaf, and then had the loaf baked, and I have found it impossible to see with the eye any crystal of alum remaining.

475. It has, in fact, become completely absorbed?—Completely decomposed and absorbed into the substance of the bread. The operation of the heat has been to liquefy the alum, and cause it to be absorbed by the farinaceous particles.

476. The result of your evidence upon that question is, that it is impossible that the crystals of alum can exist in bread after it has been baked?—Yes, quite impossible.

477. Would there be any possibility of the dissolved particles of the alum re-uniting, and forming crystals in the bread?—It would be quite impossible.

478. Mr. *Wise.*] How many loaves do you think you have purchased with a view to these inquiries?—I have purchased a great many, and I have purchased them at 78 different shops.

479. What have you paid for those loaves?—The half-quartern loaf has been sold for from about 4 *d.* to 6 *d.*

480. What have you yourself paid for a 4 lb. loaf?—The price I have paid I think has varied from 8 *d.* to 9 *d.*

481. Did you ever buy flour?—Yes.

482. What did you pay a lb. for the flour?—I have bought flour by the half-quartern; I think the flour has cost me about 3*d.* a lb.

483. Can you suggest to the Committee how it is that a baker who sells a loaf manufactured, weighing 4 lbs., having had all the trouble and expense of the manufacture, and who must also obtain a profit, can sell a 4 lb. loaf for 1 *d.* less than he sells 3 ½ lbs. of flour for, upon which he has bestowed no trouble whatever?—The 3 ½ lbs. of flour would make more than 4 lbs. of bread; a sack of flour, which weighs 280 lbs. of flour, ought to make from 92 to 94 quartern loaves. That is allowing for the amount of water which is necessarily absorbed into the bread in the manufacture of the bread.

484. How much bread would a lb. of flour make?—It generally increases in weight about one-third.

485. Does not this application of alum to flour enable a baker to use a great deal more water?—I rather suspect not; I very much doubt it.

486. *Chairman.*] You do not think, then, that bread containing alum holds more water than bread not containing alum?—I should think not; in the proportion in which they use it, I cannot see in what way it should produce that effect.

487. From your own investigation, can you distinctly deny such an allegation?—From practical experience, I cannot answer that question, of course.

488. You do not think it would, but you cannot speak from actual experience?—Chemically speaking, and speaking from the little knowledge I have upon the subject, I should say it would not. I cannot see why it should.

489. Mr. *Wise.*] Suppose you take two slices of bread, one from a loaf which does not contain alum, and the other from a loaf containing alum, and you put those two slices into saucers, do not you think that the bread containing the alum will absorb more water than the other?—That is a mechanical effect; it would depend entirely upon whether the bread be of a spongy nature or not. If you happened to have bread which was very sad, as it is called, or very close grained, it would not absorb water readily.

490. Suppose there were bean or pea flour added to it?—I have no doubt it would increase the absorbing power.

491. *Chairman.*] Are you aware that Baron Liebig has given an opinion to the effect that the use of alum in bread is very injurious?—That is quite possible; he has probably not investigated the circumstances which, I think,

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I have been the first to make known, that the alum is decomposed. He argues upon the supposition that the alum remains; and all the arguments I have yet seen are founded upon the supposition that the alum is swallowed, and an astringent effect is ascribed to it. That would be true if the alum remained. No doubt there is a decomposition of it. It is like the case of the bi-chloride of mercury, which is a poison; but when mixed with the white of eggs, it ceases to be a poison.

492. If I understand your evidence rightly, you would consider that the present law which forbids the admixture of alum with bread is an unnecessary restriction?—No; I think that laws may be made in that way which may be applied in severe cases.

493. What do you call severe cases?—Cases in which more than what I would call a beneficial quantity is employed.

494. Would it be possible for the law to state what is a beneficial quantity?—I do not see the difficulty in a case of that kind. We have many cases, I think, in which it would be found that the law, if rigidly carried into operation, would interfere sadly with the industry of the country.

495. Have you had your attention called to recent cases which have occurred of the adulteration of flour?—I have seen them stated in the newspapers.

496. Have you formed any opinion as to whether those cases were cases in which the law ought to interpose?—There being a law at present existing upon that subject, I do not think it is one which requires to be altered.

497. That law strictly prohibits the use of alum?—Yes, it does.

498. Are you of opinion that alum ought strictly to be prohibited?—I think if it existed in such quantities that you could detect it by infusing the bread in water, you might say that it was carried to an injurious extent, and you might prosecute the party; but when water will not extract any alum from the bread or flour, alum being quite a soluble substance, I do not think it is a case for the interference of the law.

499. You do not think it desirable to interfere to prevent a person being defrauded by being led to purchase flour of an inferior quality, supposing it to be of a superior quality, in consequence of its being mixed with alum?—I do not know how he could ascertain that in respect of the introduction of alum when it was baked.

500. When the flour is still flour, I presume it would not be difficult to say whether there was alum in it or not; if there were alum in it, the object of the introduction of that alum would probably be to improve the appearance of it, and to pass off an inferior flour for a superior; is that, in your estimation, an offence which the law ought to recognise, or would you allow people still to mix alum with their flour for the purpose of improving the appearance of the flour?—The question is, whether it does not really improve the flour. If it has a beneficial action on the flour, if it renders it more commendable to the eye or to the taste, I cannot say that I think the law should interfere.

501. Do you think it justifiable to improve the appearance of an article which is not improved in quality, for the purpose of selling it as a superior article to what it really is?—We see that done so continually, that it is impossible to prevent it.

502. Therefore, your opinion is adverse to any law upon the subject of the adulteration of flour with alum, at all events, because you think the admixture of alum rather a benefit than otherwise?—To a certain extent; if by water you can extract alum from either the flour or the bread, certainly the quantity is injurious, and there, I think, you might interfere.

503. Lord *C. Hamilton*.] But you think also that it is beneficial to add alum to bread?—At least it will be for others to prove that it is injurious, because it is clear that that is not alum which remains after baking.

504. Can any introduction of alum improve the nutritive qualities of the bread?—If the alum renders the phosphate of lime more soluble, then unquestionably it is an advantage to have it in bread, and if it prevents mouldiness, that is also an advantage.

505. Then you decidedly disapprove of a law which wholly forbids the introduction of alum into bread?—I would not have any law which too strictly interferes with the industry of the country. If you follow that out, you will find you must not allow a cook to put burnt sugar into your soup; you will not

not allow the brewing of porter, because porter differs from ale only in the application of a quantity of burnt or highly dried malt.

506. *Chairman.*] You would allow persons to add a substance to make an article more commendable to the eye, in order that they may pass it off as a superior article?—I have mentioned two cases in which it is done, and I would not interfere with it.

507. Do you think it desirable to introduce a chemical agent into an inferior article to make it more commendable to the eye?—Certainly, if the public is not injured by it.

508. It is deceived, at all events, and pays a higher price for an inferior article?—Not if you generalize the practice; it is only moving a step up in the same ladder; the man who uses the best flour may do the same.

509. Mr. *Moffatt.*] If all the bakers in London agree to use a little alum in their bread to make it look whiter than the bread in the country, is there any fraud committed on the public?—I do not see that there is.

510. *Chairman.*] Is there any fraud in putting alum into the second quality of flour to make it appear of the first quality?—If you prohibit the use of alum in the first quality, there is; but if you can improve the other also in the same way, I cannot see where the fraud exists.

511. Lord *C. Hamilton.*] You say there is no fraud, and the Honourable Member suggests to you that there is none, in the general use of alum. Do you think, if a baker were to put up a notice in his shop window that he sold white bread mixed with alum he would obtain many customers; would a baker, in fact, stick up such a notice?—No; I have seen the notice "Bread with the gin in it."

512. Why should not a baker announce to the public that he uses alum?—I do not know that it would do him any harm, for no one doubts that he does.

513. You think it would be advisable, at least it would not be reprehensible, to ask the bakers to advertise that their bread is a mixture of flour and alum; do you think the public would purchase such an admixture?—The thing is so well known that it would produce no difference, in my opinion.

514. Take the case of two bakers' shops, and suppose one of them affixed a notice to the effect that he sold bread mixed with alum, and the other living next door that he sold bread made of pure flour, do you think the public would go to the man who mixed his flour with alum?—No, certainly not. I have no doubt the public would fancy there was something injurious in the alum.

515. Then it is not the same thing with the public whether they buy bread with alum in it or not?—From the general impression which is abroad, the public, I have no doubt, would prefer going to the baker who did not use alum.

516. Mr. *Moffatt.*] If the public were all as well informed on the subject as yourself, do you think that there would be any preference shown by them for bread in which there is no alum over bread in which there is alum?—I can only say that I eat bread daily in which I have no doubt there is a small portion of alum, but I have not the least objection to it. I have found alum in bread sold in other countries as well as in this. Not more than three or four weeks ago, I bought bread in two of the principal streets in Paris, and I have analysed it since I came back, and both those samples of bread contain just the same constituents of alum which the bread here contains.

517. In the same quantity?—Relatively I saw no great difference.

518. *Chairman.*] You say that if the public had the option of buying pure bread in one place, and bread mixed with alum in another, they would go to the shop where the pure bread was sold, and not to that where it was mixed with alum?—They would go to the shop where the pure bread was sold, under existing circumstances, I have no doubt, if the alternative were put before them in that way; at the same time, the public go indiscriminately to bakers' shops now.

519. Is not that simply because they are not aware of the adulteration which takes place?—I have a difficulty in conceiving any person who is ignorant of the fact that alum is used in bread. That has been so notorious for years, that if a person told me he was ignorant of it, I should be inclined to doubt it.

520. You do not, in fact, believe that there is any bread made without alum being

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being introduced?—I do not think you will find any in this town, except bread which is made privately.

521. Mr. *Moffatt.*] What is the case with respect to the ordinary household bread sold by the bakers; is there any alum in that?—In the case of ordinary household bread, where colour is not an object, you may find it without alum.

522. Mr. *Wise.*] Do you like the French bread?—Yes.

523. I understand you to say you could not discover any difference between the bread which you bought in Paris, and bread bought in London?—Mine was not a quantitative but only a qualitative analysis; but judging of the relative quantities of white precipitate by seeing it, I should say there was no difference worth mentioning.

524. Do you think that the Council of Health at Paris are of your opinion, that alum is not injurious to health?—I cannot say what they think upon that subject; I can only relate the fact which is within my own knowledge.

525. Mr. *Moffatt.*] Is alum used by the bakers in the rural districts of this country?—That I cannot say.

526. You are aware that country bread is not so white as it is in London?—It is not.

527. The main advantage of the use of alum, I understand you to say, is that it makes the bread look whiter?—Yes, and it also gives a certain firmness of character to the bread; I have no doubt that, by coagulating the albumen, it gives firmness to the bread.

528. And it is not injurious to health?—I think not; at all events if it be, it requires investigation; it has hitherto been looked at upon the assumption that it is alum, which I entirely deny.

529. *Chairman.*] You think a law preventing the admixture of alum with flour is not necessary?—That is a different thing; you use flour for many other purposes besides making bread.

530. As applicable to making bread, you think it is not necessary?—Within certain limits, I think it is not injurious.

531. Mr. *Moffatt.*] If a considerable per centage of alum were used, would not it impart a considerable flavour to the bread?—If you put 500 grains to the quartern loaf, which is what I have done, it is perfectly impossible to eat the bread, it becomes too sour; bi-sulphate of potash is a singularly sour thing.

532. So that any serious admixture of alum would be detected?—Certainly.

533. And therefore the public palate would protect itself?—I have great faith in the public palate; and if the Committee will allow me, I will relate some cases which have come within my own experience, to show that it may be depended upon.

534. *Chairman.*] You do not mean to say that the public palate would always detect this adulteration?—No; but the lower orders in particular have a perceptive power which is quite astonishing.

535. You do not probably apply that universally; you would not say that the palate of the lower classes can detect the presence of Scheele's green in confectionery?—Those are substances which are insoluble, and which have no taste.

536. Lord *C. Hamilton.*] If the habit of introducing a larger quantity of alum obtained, would not the public taste become so accustomed to it that the practice might grow?—No; I think you have got to the extreme limit already.

537. You may fancy so now, because the practice is checked by the law, but if the law were repealed, and everybody might cater as he pleased to the public taste, might not the public taste be so modified as to lead persons to like that bread?—I think it will be time to legislate upon that subject when the event arrives.

538. *Chairman.*] The public taste has shown itself already in favour of exceedingly green pickles, whereas exceedingly green pickles are very poisonous; would you trust to the public eye in that instance, as you would to the public palate in the other?—Pickles are a sort of exceptional thing; they do not obtain much among the lower classes.

539. They are used by the higher classes?—Certainly; but there ought to have been an amount of intelligence among the higher classes which should have taught

taught them the danger of green pickles. I will state cases showing that the perceptive faculties of the lower orders are very strong indeed; I have seen examples of it in manufactures. For a considerable time I occupied a position with Messrs. Hawes, the large soap manufacturers. In the process of manufacturing soap it is of considerable importance to know when the process is finished, in other words, when the combination of the grease and the alkali is complete, because you may go on boiling after that, wasting your time and doing harm to the soap; that cannot be determined by the eye. I was compelled, when I first went to that kind of employment, to resort to chemistry for it, and it required something like half an hour for me to determine when the whole combination had taken place; but I found among the common men they could take up a portion of the soap and squeeze it in their fingers and then taste it, and in that way they could determine in two or three seconds that which required half an hour's trouble by chemical analysis in my case. I afterwards ascertained what this was, and ultimately I was able to determine the same thing; I found it was merely the power of taste which those men had acquired. Again, in another instance, I was employed in the dyeing of hats; certainly up to that time I always thought I knew a black hat when I saw it, but when I went into the manufactory the men were able to show me two hats which appeared to me equally black, but they said one is black and the other is not; it required three months before I was able by almost daily practice to determine which was black and which was not, and since that time I have seen very few black hats. I state this to show that their perceptive qualities are very great. In respect to beer in particular, many of those men would tell you very correctly indeed what brewer has brewed a particular sample of beer.

540. Have you also turned your attention to the adulteration of beer?—Yes, I have. In respect to beer, I have had considerable experience in the manufacture of the article, and I can only say that in the large breweries it seems quite impossible to adulterate beer. There are so many people about, and the excise officers come in so frequently, that it would be quite impossible to effect any adulteration there. As regards the publicans, I believe that the only thing they add to the beer is a small quantity of coarse sugar; that they invariably add; that is for the purpose of freshening up the beer in fact, and promoting a refermentation of the beer. The brewer for his own safety is compelled to keep it in what is termed a flat condition, and if it were sent out and sold in that state, the public would not drink it.

541. Mr. *Moffatt.*] Do they add water to the beer?—I should think not; they may add a little, but very little.

542. *Chairman.*] Your opinion is that burnt sugar is the only thing they add?—Not burnt sugar, but common coarse sugar.

543. Mr. *Moffatt.*] How is it applied?—It is dissolved in the beer, and the beer is left for two or three days to begin to ferment. The profit the publican derives from that arises from this circumstance, that the beer, in a proper healthy state of fermentation, when drawn into a pot by a machine, is so full of gas that it is impossible to fill the pot; with beer in a good condition, from a gallon you may draw perhaps five pots; you cannot get more into the pot than four-fifths of the proper quantity; so that the publican's profit is derived from that.

544. Have you examined many samples of beer?—A great many.

545. And have you universally found no admixture but sugar?—I have not noticed anything, except that in ales I have noticed what I had no doubt was an infusion of bitter orange peel; it communicates an agreeable bitterness to the beer in which it is used.

546. *Chairman.*] You are aware that it is in evidence before the Committee that a number of other articles are used?—I fancy that those may be exceptions, but certainly the general rule is as I state.

547. You have never, as I understand you, detected quassia, gentian, or cocculus indicus?—No, and I do not believe any of those articles can be detected; you may guess at them, but there is no chemical means of detecting them.

548. Supposing you do guess, you guess that there are no such things in beer?—I think in ales there is adulteration; that is, I have suspected, from the intense bitterness of some of the ales, that it could scarcely be altogether hops; but it is only supposition; I have no proof.

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549. Mr. *Moffatt.*] You have not analysed them?—It is impossible; I have attempted it in a variety of ways.

550. Do you know any of the purposes to which cocculus indicus is applied in this country?—I cannot conceive what it is used for.

551. You know it is imported?—It is, largely.

552. In larger quantities than it used to be?—Yes; I believe the consumption is increasing. I can scarcely conceive a motive for putting it into beer myself.

553. Mr. *Moffatt.*] What would be its effect?—The effect of beer is not immediate, but the effect of cocculus indicus is very rapid; a person drinking a certain quantity of pure beer would not from the alcohol experience any sensible effect for a considerable time; but if it were mixed with cocculus indicus, he would be stupefied almost immediately.

554. Mr. *Peacocke.*] Cannot you conceive in the case of a publican who had adulterated his beer with water, that he would be likely to put in cocculus indicus for the purpose of adding to it some of that intoxicating power which he had taken out by diluting it with water?—It is such a totally different sensation, that I can hardly think it; provided the effect were similar to that of alcohol it would be possible; but as far as I am concerned myself, there is no resemblance between the effect of cocculus indicus and alcohol.

555. The one has a stupefying, and the other a stimulating and exciting effect?—With myself it creates an oppression at the chest, and a tingling of the arms, and a loss of power instead of a gain of power.

556. Mr. *Cowper.*] In this experiment what quantity of cocculus indicus have you taken; you have probably taken it in a diluted form?—I have taken very small quantities, and I began with very small doses, being of course very careful about it.

557. Cannot you conceive that a small proportion of cocculus indicus in a pot of beer might produce that heady effect which strong beer produces, without producing the more powerful results you speak of?—No dose that I ever took affected my head in the least; it was confined entirely to the nerves about the chest, and there was a great prostration of strength, which was very sudden.

558. *Chairman.*] And you believe the consequence would be the same in most other subjects?—I have not been able to repeat my experiments on others, of course.

559. Your impression is that cocculus indicus does not affect the brain at all?—I do not think it affects the brain in such a dose as I ever took; in a large dose it might affect the brain by its reaction.

560. Viscount *Goderich.*] In what form have you taken it?—In small quantities as an infusion; I have infused it in boiling water and taken it in small quantities.

561. Do you consider that so taken it would have a similar effect to that which it would have had if infused in beer?—That I cannot say. I cannot think that the effect would be altered by the presence of a small quantity of alcohol.

562. Mr. *Cowper.*] Have you ever infused a small quantity in beer to ascertain its effect?—No; I preferred to take it pure and simple, to see what its effects were.

563. *Chairman.*] You cannot state of your own knowledge what the effects of a mixture of cocculus indicus with beer would be?—No.

564. You do not know what its effect upon the palate would be?—Its effect upon the palate would not be different; it gives a slight astringent bitterness, which would be communicated to the beer.

565. Not to such an extent as to enable you to detect it?—No.

566. Mr. *Moffatt.*] Have you examined many samples of beer in different parts of the metropolis?—I have examined a vast number. I was at one time employed in a brewery.

567. And the evidence which you have now given has reference to those extensive examinations?—To many hundred examinations.

568. Mr. *Sheridan.*] Beer obtained from publicans?—Yes.

569. And you never have found anything but sugar mixed with the beer?—I have found sugar, and I have the impression that some bitters have been used; but I could never detect them.

570. You have examined a great many samples of beer, and you have never found

found any other substance than that of sugar?—I have never found any direct evidence of the fact. I have been led to suppose that there was something else from the intense bitterness of some of the ales. In porter I have not found anything but sugar.

571. Mr. *Cowper.*] Will you inform the Committee what the tests were which you used in order to ascertain whether quassia or gentian might be found in malt liquors?—I am not able to tell you any test for them. I do not know of any.

572. Therefore your experience is simply negative; you cannot say that they do not exist?—By no means. I say I have even guessed that quassia might be present in some ales from their intense bitterness, but by chemistry you cannot determine it.

573. Have you the means by chemistry of detecting any other adulteration besides sugar?—Any mineral adulteration might be detected; sulphate of iron, for example.

574. No vegetable adulteration?—Not unless it has a very distinct character, certainly none of those which have been mentioned; it would be possible to detect strychnia.

575. Have you tested for strychnia in bitter ales?—Yes; I have never found anything of the kind, nor morphia.

576. Mr. *Sheridan.*] Besides bitter ingredients and sugar, can you certainly say that you have never detected cocculus indicus, salt, or water?—I have never detected cocculus indicus. As to salt, it is impossible to say whence it is derived. The hops themselves contain a very large quantity of saline matter; and according to the quantity of hops employed, you have that saline matter increased.

577. Lord *C. Hamilton.*] Is not there much beer in which quassia is used instead of hops?—That I cannot say.

578. Would salt be present derived from quassia as well as from hops?—No; there is no saline matter in quassia.

579. Therefore, whenever you have found salt you have attributed it to the presence of hops; can you say that in some of the instances that beer had not been made with quassia instead of hops?—If I found no saline matter, I should certainly say that hops had not been used.

580. Whenever you found salt you assumed that it must come from hops, without ascertaining whether quassia had been used instead of hops?—No; I say I cannot determine whether it has been put in, or whether it has come from the hops.

581. Have you ever bought beer or porter at the brewery, ascertained its composition, and then bought beer from the houses which were supplied by that brewery, in order to ascertain the difference?—I have repeatedly done that; in fact, it is the usual mode of ascertaining by the brewers themselves whether a man is doing his business honestly or not; it makes a great deal of difference to them, because they know whether to trust him or not. That was one of the purposes for which I was employed in the brewery in which I was.

582. You have been employed by the brewers themselves to prevent frauds among their retailers?—That is, to give them this warning, which they know to be an excellent one; if a publican adulterates his beer, the public taste soon finds him out, and he cannot go on.

583. Mr. *Wise.*] You state it as your opinion that all the porter sold in London by publicans is as good and wholesome as that sold wholesale by the brewers?—Yes, it is as good and as wholesome, and probably agrees better with the stomach than the other would do.

584. Are you aware, in reference to this point, that while the export and consumption of beer, and porter, and ale in Great Britain increases every year, the amount of malt and hops used is less?—The Honourable Member is no doubt aware that sugar is allowed by the Excise to be used in the manufacture of beer.

585. Were you aware of the fact to which I have called your attention?—I would merely suggest that perhaps sugar is coming into use instead of malt.

586. Mr. *Moffatt.*] How many years has sugar been allowed to be used in breweries?—Perhaps six or seven, or eight.

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587. Has it been allowed as many years as that?—I am only guessing; I should say that was the outside.

588. It would be quite possible, if sugar has been allowed in breweries where it was previously prohibited, that that may account for the diminution in the consumption of hops and malt on which duty is paid?—I think you must take that into consideration in drawing any comparison.

589. What test have you employed to discover whether cocculus indicus was in beer or not?—We have no test for it.

590. You never discovered the bitter taste which cocculus indicus imparts?—Cocculus indicus has not a very bitter taste; it has an astringent taste, but not greater than the hop itself. I never experienced that effect from any beer which I have drunk, as being that which I knew and could recognise as the effect of cocculus indicus.

591. Viscount *Goderich.*] You said that the beer sold by the retailers was in your opinion as good and wholesome as that sold by the brewers; do you mean to say that you believe that water is not added very frequently to beer sold retail?—You may find small dealers, who are ruined already almost, and are determined to carry on business as they can, but if you go to any of the large dealers in beer, persons who are drawing two butts of beer a day, of which there are a great many about town, they have no time to make those additions; and in the second place, people in the neighbourhood are so habituated to the taste of good beer, that their houses would be deserted; they can have no inducement to do it; they have an ample profit upon the beer, even selling it as they do.

592. *Chairman.*] Do not you think that they are sometimes desirous of making the ample profit larger?—There is this limit to it; a man is supposed to have some knowledge of his business, and to know what will do and what will not.

593. Do you know what the profit is between the retail and the wholesale prices of beer?—I know beer is generally sold from 32 *s.* to 34 *s.* a barrel, with five per cent. off on payment; that is 36 gallons; that would be necessarily less than 3 *d.* a pot; if it be 36 *s.* it would only be 1 *s.* a gallon. Therefore the publican's beer costs him very little more than 2 ½ *d.* a quart. If, however, to that beer he has added a small quantity of sugar, and allowed it to commence fermentation, it is impossible in drawing the beer to fill the pot full in reality, therefore the publican makes six pots out of five pots; now that of itself yields an enormous profit.

594. Mr. *Moffatt.*] Thus the public lose in the quantity of beer they buy?—They get a less quantity.

595. Is not it your opinion that it would be beneficial for the interests of the public to have an Act of Parliament passed to prevent the practice of vending beer frothed?—If you could do that it would be protecting the interests of the public undoubtedly; or if you could make the pot a little larger.

596. Mr. *Wise.*] At what price do the retailers of beer sell this article you have spoken of?—The lowest price I have ever known is 3 *d.*, that is, as they say, in their own pots; 3 ½ *d.* is as low as you will buy it in any part of town.

597. According to your experience, the publican gets now nearly a penny a pot upon all the beer he sells?—Yes.

598. Lord *C. Hamilton.*] You think therefore that he would be satisfied with his fair profit, and not add anything to the beer to increase it?—It would be 25 per cent. profit; and as it is a ready money concern, I think it is ample.

599. You think he would be satisfied with it?—I really think so.

600. You have stated that you know that there is a great deal of cocculus indicus coming into the country; can you state to the Committee any fair and honest purpose for which that is used?—I do not know of any.

601. You are a chemist of great practice; cannot you state to the Committee any legitimate and fair purpose to which this increasing importation of cocculus indicus is applied?—I cannot think of anything at the present moment; of course there are secret processes carried on for various purposes.

602. Viscount *Goderich.*] You stated just now, as your reason for thinking that there was so little adulteration practised by publicans, that you did not see any advantage they would gain from practising it?—Not a permanent one.

603. You do not agree with the opinion of Professor Redwood, to the effect that publicans mix water with their beer for the purpose of concealing their

their profits from the public?—Of course I do not agree with that; in fact, I would say, of my own knowledge, that it is not so. I have had great experience in this matter, and I suppose Professor Redwood has not.

604. *Chairman.*] Is there any other article to which you wish to direct the attention of the Committee?—I wish to speak of vinegar; that is said to be very extensively adulterated with sulphuric acid, and no doubt some of the lower qualities of vinegar have been so; but I think that in that respect there has been great exaggeration. I will relate one case which occurred to myself, to show that the editor of the "Lancet" published a statement with respect to vinegar belonging to Messrs. Hall & Evans, of Worcester. They applied to myself and also to Dr. Ure on the subject. They declared there was nothing of the kind in their vinegar, and they brought me a small sample. I tested it in a way which perfectly demonstrates the existence of free sulphuric acid, if there exists only so much as one per cent. In this vinegar I found nothing; upon which they desired me to go down to Worcester and go through the whole of their works. I did so, and examined their works. They are very large vinegar manufacturers; and I made a calculation from the quantity of oil of vitriol, as it was called, which had been found in their vinegar, that taking the whole quantity of vinegar they produced, it would require something like 25 carboys of oil of vitriol a week to produce the adulteration in question. It would be quite impossible, of course, to have brought anything of that kind into the manufactory without every one seeing it. I found there was not a particle of oil of vitriol on the works. In examining the water of which the vinegar was made, I found it contained an enormous quantity of sulphate of lime. I have no doubt the mode adopted for testing the vinegar was by salts of baryta, and that the sulphuric acid combined with the lime had been taken to be oil of vitriol. I examined the whole of the vinegar belonging to the establishment, and I examined a great many samples from their warehouse in London, and there was no oil of vitriol in any of them. This fact was certified to the editor of the "Lancet," but he declined to make any apology. They consequently applied to other chemists; I think to Professor Graham and several others; in fact they must have gone to an enormous expense, 150*l.* at least. After a time, however, the editor of the "Lancet," instead of making a proper apology, put in a very bare and meagre statement, to the effect that he found Messrs. Hall & Evans's vinegar was to be exempted from the list of those containing oil of vitriol. These people, as I said, had gone to an enormous expense; and I think, therefore, it ought to teach us how dangerous it is to deal in this way with any manufacturer. I do not question Dr. Hassall's ability, but we are all liable to make mistakes, and a respectable manufacturer ought not to be attacked in this way, and his character ruined by a mistake of this kind. For if you establish a committee of persons to decide upon these cases, they must be as liable to make mistakes as any other persons, and how is a manufacturer in that case to rectify an error? In this particular instance it cost the manufacturer 150*l.* to do so, and when done, I very much doubt if the mischief caused by the original statement was ever remedied.

605. What may be your method for testing for sulphuric acid in vinegar, as distinguished from that which was employed by those who wrote in the "Lancet"?—The process I adopted upon that occasion was a very simple one. I have here two samples, one containing about one-half per cent. of sulphuric acid, and it will be seen by only exposing a single drop of this upon a little plate, at a steam heat for five minutes, the vinegar containing the sulphuric acid will become perfectly black, and the other which does not contain it will remain uncoloured. A small white plate is put over a vessel containing water, and the water is made to boil, so that the steam plays against the lower part of the plate. Under these circumstances, take a single drop of the suspected vinegar, and drop it upon the plate; if it contains oil of vitriol, the vinegar will evaporate, and the acid will concentrate till it is sufficiently strong to act on the organic matter of the vinegar, on which it acts and chars it. If it contains no oil of vitriol it only evaporates, and leaves a yellow stain. That however is only a test to prove whether there is sulphuric acid present; to determine the quantity we must make an analysis, which is more difficult.

606. You think there are other methods which would lead to mistakes, provided sulphate of lime was in the water?—Unquestionably so.

607. What is your opinion upon the general subject of adulteration; I

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gather from what you have said that you think bread and beer are not adulterated at all, or only in such a way as not to be injurious to the public health. Is that the conclusion at which you have arrived in regard to articles of food and drink generally?—The Committee has mentioned the case of pickles, which I thought was notorious, because it is stated in every chemical book; every chemical book will tell you that if you put an iron knife into pickles, and it becomes coated with copper, the pickles are not fit to be eaten.

608. Putting aside that exceptional case, do you think that articles are sold generally in a pure state?—Excepting confectionery, taking the great mass of the food which the public eat, I have never met with any instance of disease caused by any kind of food being adulterated.

609. You do not think that Cayenne pepper is ever adulterated with red lead? I have not seen a case of disease brought on by it. If Cayenne pepper is adulterated with red lead, as possibly it may be, that ought to be stopped of course. I have no question that there ought to be legislation upon this matter; but I think it ought not to interfere with the industry of the country.

610. Have you in your own mind any plan by which such matters might be investigated without an interference with the industry of the country?—In the case of flour and in the case of beer, if anything is found in them which is injurious, you may summarily prosecute the man. He may be brought at once before the magistrate and punished, and I think that is sufficient.

611. Would you recommend a law giving a similar summary power in the case of the adulteration of other articles?—I think I would recommend an extension of the same law; it works very well, as far as I see.

612. How is the law in reference to adulteration to be put in practice?—I see instances of its being so stated in the newspapers that under the present law parties can be brought up summarily and punished.

613. You see no objection to a similar machinery for the purpose of checking adulterations in other articles?—In any article, in fact, which is proved to be injurious to the health of the public.

614. Mr. *Wise.*] Are you aware of the loss of time which a poor man would have to undergo in a case, for instance, of his buying bad flour?—I am not; but I think you cannot be too cautious when you have the character of a respectable man to deal with. In the case of tobacco, the Excise formerly exercised a power of this kind; and I know many cases in which it was improperly exercised; for instance, I know a case in the City, in which I was engaged. A most respectable tobacco manufacturer had a servant with whom he had a quarrel. Now, it is not allowed to introduce sugar into tobacco. Good tobacco contains sugar naturally, but you must not introduce it, according to the Excise regulations. However, this man, who probably had never mixed anything with his tobacco in his life, was seized upon one day by the Excise, and a quantity of sugar was found in his tobacco; you could take it up with a spoon. There was no defending such a thing, and all he could say was, that he had not put it there, nor had it been put by his will, and he was satisfied that there had been some collusion.

615. Mr. *Moffatt.*] Was there any sugar found in the manufactured tobacco on his premises?—Not any. He was fined very severely. It was afterwards, however, demonstrated that this man whom he had quarrelled with had communicated with the Excise, he himself having put the sugar upon the premises. I will relate another example in which the Excise themselves committed an error. That was the case of a tobacco manufacturer at Gloucester. I was summoned to go down to Gloucester to defend that case; the assertion was, that the man had put liquorice into the tobacco; the quantities they pretended he had introduced were very small; they admitted that they had no chemical test for it, and they admitted that they had not employed the microscope. The magistrates at last compelled them to say how they found out that the substance was there. To the amusement of every person there they declared they smelt it. Now, there could not have been more than 15 lbs. of liquorice in the whole manufactory, and there must have been many tons of tobacco; and when you recollect the strong odour of tobacco, and that liquorice has scarcely any smell at all, the magistrates very justly said at once, "We cannot entertain the charge." In other cases, however, parties have been condemned upon quite as little evidence as that.

616. Great injustice is, in your opinion, frequently done by the rigid interference

ference of the Excise with the assumed or asserted adulteration of tobacco?—I am certain of it.

617. Lord *C. Hamilton.*] It appears from your statement that the Excise only depended upon the same means of detection, viz., the evidence of their senses, which you have suggested would be sufficient for the public, according to the illustrations which you have given in the case of soap and the colour of hats?—I would not recommend a prosecution upon such a test as that. Here you had a man's character at stake, and his money too; and though that person was successful, it put him to enormous expense; the Excise threatened to throw the case into the Court of Exchequer, and would have done so had not the "Daily News" taken up the matter, and remonstrated about it.

618. Viscount *Goderich.*] Did I understand you rightly to say that you have been employed to give evidence in cases of suspected adulteration?—I have generally been employed against the Excise.

619. In favour of parties accused of adulteration?—Yes; wherever I have found the case an honest case, I have given evidence, but I have repeatedly refused to do so. When I have found that the man was really adulterating, I have always said, "You must compromise this, there is nothing to be done;" and I have met with many such cases.

620. In what instances?—In tobaccos in particular.

621. Mr. *Sheridan.*] In what other articles?—In tobaccos chiefly; certainly in some other things.

622. Will you mention the other articles?—I have known pepper adulterated.

623. Viscount *Goderich.*] What substances have you found in it?—Chiefly farinaceous matter, such as starch or powdered rice.

624. Mr. *Moffatt.*] Matters not prejudicial to health?—No.

625. Mr. *Sheridan.*] And not advantageous to the public?—Not to the public revenue.

626. Mr. *Moffatt.*] Were they disadvantageous to the public health?—They would do neither harm nor good; I believe the addition of a small quantity of sugar to tobacco is an advantage: the best tobaccos always contain sugar.

627. Viscount *Goderich.*] You mean to say that an inferior quality of tobacco mixed with sugar would be equal to a superior quality of tobacco?—They are able to sell it better, and therefore one would infer that it looks better, and I dare say sugar does communicate good qualities to it; it brings it nearer to the natural standard.

628. Mr. *Peacocke.*] You have never detected any other description of adulteration in tobacco except sugar?—Yes, I have detected nitrate of potash.

629. Mr. *Kinnaird.*] What is the effect of nitrate of potash?—Nitrate of potash, I apprehend, is for the purpose of making the tobacco burn better.

630. Has it any deleterious effect?—No; there is nitrate of potash naturally in tobacco; good tobacco always contains it.

631. Mr. *Peacocke.*] What else have you found?—I think I have detected some of the salts of ammonia; sal ammoniac I have detected, which ought not to exist in tobacco; I have also detected some leaves of improper plants, such as the common garden rhubarb.

632. Do you know the plant called the calves' plant?—Yes; I have not detected that.

633. I am told that in some counties it is cultivated for the purpose of putting with tobacco?—It is sometimes smoked alone.

634. Have you frequently detected the leaf of some other plant?—I have detected the rhubarb and the coltsfoot to some extent.

635. Could they be detected by the eye?—No; I only detected it by the microscope; the hairs upon tobacco are so peculiar, that you can readily see what is not tobacco, and then, by comparing it with other samples, you discover what it is.

636. Have you found spurious leaves in cigars?—No; I have examined cigars very little.

637. Have you extensively used the microscope for the purpose of detecting adulteration?—Yes, for years.

638. Mr. *Wise.*] You said that you thought the public are amply protected by the 6th & 7th of William the 4th with regard to the adulteration of flour; are you aware of the trouble which it gives to any person to prosecute under that Act?—Whatever the trouble may be, I think the responsibility you cast

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upon the individual is so great, that I should hardly think of diminishing the labour.

639. Suppose a poor man brings flour to me, and I have it analysed, and find plaster of Paris in it, do not you think that it would be much better for me to be able to refer that poor man to a public inspector, or a public prosecutor, than that he should himself undertake to prosecute the miller, and obtain a search warrant to search the premises?—I do not think I am qualified to deal with legal questions myself.

640. Would not it be better to have a public inspector who should be able to go to the mill, and look at the flour, and hear the complaint of any poor man, than to leave the poor man to go to a justice of the peace, lay an information, and get a search warrant, which would take two or three days of the time of the man who prosecutes?—In that case, perhaps, some other plan might be adopted; but I do not think that I could enter into that subject. I have found it to be a most serious thing to have the character of a large manufacturer interfered with; the news spreads rapidly that something has gone wrong.

641. Do not you think that if a man sold plaster of Paris mixed with flour, he should be punished?—That depends upon whether he put it in, or it had got in in some other way without his knowledge.

642. Supposing you found 20 or 30 sacks of plaster of Paris in a mill?—I would submit, that in the case of a man who has two bad coins in his pocket, which a man may have quite unconsciously, it would be rather hard to drag him up, and condemn him at once.

643. Do not you think it would be a very suspicious circumstance if you found several sacks of plaster of Paris in a flour-mill?—That depends upon whether it were wanted for the purposes of the mill. I can easily conceive that a miller might require plaster of Paris.

644. For what purpose?—For plastering. If indeed I found a particular quantity of sulphate of lime of a very fine quality in a flour-mill, I might assume that it was there for a bad purpose; but a man would not use the common description of plaster of Paris to mix with flour.

645. Do not you think it would be a great protection to the public, if, in the metropolis, or in the large provincial towns, there were certain inspectors appointed who should be in communication with the Board of Health, who could from time to time, when they thought that adulteration was practised, interfere, for the purpose of its being exposed and punished?—I see no objection to that; but I would point out that even the Excise, which is the only thing of the kind which we have in this country, has, to my own knowledge, in several cases committed gross injustice, sometimes inadvertently, and sometimes, it would appear to me, from ignorance. If you had a public prosecutor of that kind, at any rate let the manufacturer, if he is found right, recover his expenses from him; but in the case of the Crown that is not so now. If a man has an action brought against him, he may be proved to be perfectly innocent, but he has no remedy for the expense to which he has been put, the Crown paying no costs.

646. If a public prosecutor were appointed, do you think it would have a beneficial effect in preventing adulteration?—It would calm the public mind, and there would be no objection to have such a person if you can regulate his proceedings so that he shall do no harm.

647. If an analysis is made of an article, how can the person be injured?—The question must arise, having found the material in the flour, how did it come there? had the miller a guilty knowledge of it?

648. Who could put into the flour but the miller?—I have shown one case in which sugar was put into tobacco where I am convinced that it was not put in by the man himself. The manufacturer, therefore, will be left to the mercy of servants, and a malicious servant can ruin his master at any time.

649. I gather from your evidence that you think the appointment of a public prosecutor who might look after these adulterations would be beneficial to the public?—Yes, if his functions are so regulated that he can do no harm, and if he were made responsible for the proceedings in case it was shown that they were groundless. In case the public prosecutor brings an action against a man, and puts him to expense, and so on, let the man have power to recover those expenses.

650. Would

650. Would you draw any distinction between adulterations simply of a fraudulent character, and those which are positively injurious to health?—I would. I would make a difference in the amount of the fine or the length of the imprisonment. I think adulterations which are injurious to health could scarcely be too severely punished.

651. Mr. *Moffatt.*] The Excise have extensive powers in dealing with the adulteration of tobacco, have not they?—At one time they had too great power.

652 Have those powers lately been modified?—The fact is this, that I think the Excise have seen that they could not carry out their views, and since the "Daily News" took up the matter, they have been very quiet. I notice that Mr. Phillips, in his evidence, says, he does not think there is any adulteration of tobacco just now, and I do not know that there is any great difference between the present time and formerly.

653. Is it within your knowledge that there have been many instances in which complaints of adulteration have been made, but on an inquiry being instituted, they have not been sustained?—A vast number of them were not sustained.

654. In those cases was great injury inflicted upon the persons so accused by the Excise?—Unquestionably.

655. It was a circumstance of permanent injury to a tobacco manufacturer, to be accused by the Excise of adulterating his tobacco?—Unquestionably.

656. And he had no remedy for that wrong?—None whatever. To show how mistaken the Excise may sometimes be, I will mention the case of a highly respectable brewer in this town, who wished to export ales. In order to export ales they must be brewed of a certain strength, or you do not get the drawback. This brewer was determined to brew an honest article, and he brewed it of exactly the proper strength; now it is the custom in the trade to brew a little stronger than the proper strength; of course, I suppose, to make allowance for the clumsiness of the Excise. In this instance the gravity of the ale was precisely that which would enable the brewer to recover a small duty. However, the barrels of beer were sent to Liverpool, and a great many there were of them; I believe as many as 1,600 barrels of beer. There they were tested by the Excise. The Excise said, this is not strong enough, and we will not allow the drawback; there is some half pound or something wanting. The difference was very trifling, and we suggested that perhaps the mode of analysis they had used might not be sufficiently accurate to determine it. We offered to give them proof from our own brewing books that the wort was of the proper strength at the time it was brewed. The contest went on, and it seemed as if it would never have an end; but after 14 or 15 months, they returned the drawback, having found that they were wrong.

657. *Chairman.*] I understand what you desire to show by your evidence at the present moment is, that great caution should be exercised before any proceedings are taken against persons on mere suspicion?—Certainly.

658. You probably think that that does not obviate the desirability of some measure being adopted to prevent and punish adulteration, provided means are at the same time taken to prevent the occurrence of oppression and injustice?—Certainly.

Mercurii, 5° die Martii, 1856.

MEMBERS PRESENT:

Mr. Scholefield.	Mr. Peacocke.
Mr. Moffatt.	Mr. Wise.
Mr. Sheridan.	Viscount Goderich.
Mr. Kinnaird.	Mr. Cowper.
Mr. Gregson.	Viscount Ebrington.
Mr. Otway.	

WILLIAM SCHOLEFIELD, Esq., IN THE CHAIR.

Lindsey Blyth, Esq., called in; and Examined.

L. Blyth, Esq.
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659. *Chairman.*] YOU are an analytical chemist and lecturer on Natural Philosophy at St. Mary's Hospital, Paddington?—I am.

660. How long have you held that or any other office in St. Mary's Hospital?—I was appointed as the resident dispenser in 1851, when the hospital was opened.

661. What are the duties of your office?—The duties of my office gave me the entire charge of the dispensary and the laboratory of the hospital. At that time there was no apothecary appointed, and I fulfilled the duties of the apothecary so far as regards the examination of drugs.

662. I presume the examination of drugs is part of your duty at the present moment?—No. I gave up the duties of dispenser in 1854.

663. How frequently do you make an examination?—It is conducted every quarter; samples are sent for to different wholesale houses, and it was my duty to examine them previously to their being laid before the medical committee, so that I might give them a report as to which samples were best for selection.

664. Can you give the Committee any information as to the result of your investigations at different times; have you found the drugs pure?—In the first instance, we had to get them from a great number of wholesale druggists, in order to choose those which should eventually supply the hospital. In the first supply there were certainly a great many of an inferior quality; I would not say exactly they were adulterated, but there were natural drugs of an inferior quality.

665. What do you mean by an inferior quality?—Drugs which would be slightly impaired from containing impurities; those articles of *materia medica* which do not undergo any chemical preparation beforehand are supplied in their natural state, such as roots, and barks, and gums; others, again, are chemically prepared and undergo a process of preparation; such articles ought to be of a known strength, but the natural articles are of different degrees of purity, according to the climate or the country from which they come.

666. With regard to the drugs themselves which you speak of as having been inferior in quality, you have not found any actual adulteration in them, but they have simply been of an inferior quality?—Simply of an inferior quality.

667. Can you name any articles which you would call drugs which come to this country in their natural state, besides those which you have already mentioned?—We received a sample of cinchona bark, which is very largely employed in hospital practice as a tonic, which was not cinchona bark at all; it did not contain a single trace of any of the active principles which give its virtues to that bark.

668. In fact it was some other bark?—It was some other bark.

669. Mr. *Sheridan.*] You do not call that merely an inferior article, do you?—Yes, I call it an inferior article; because I believe it was not sent in wilfully, but from ignorance.

670. *Chairman.*]

670. *Chairman.*] Though the person who sent it in may have sent it in ignorance, it must have been introduced into the country fraudulently; the person abroad must have known whether it was a genuine article or not?—Yes; I should attribute the blame to the parties who allowed it to be introduced.

671. That really was a fraudulent substitution, was not it?—It was. With respect also to the natural article of lime-juice, which has lately been largely employed in hospital practice, and also on board ship, professional chemists say that this lime-juice should contain two per cent. of citric acid, which is supposed to be the active principle upon which its virtues depend. In an examination of four samples, I found that not one of them contained one per cent. The best article of the four which were sent in, contained about three-fourths per cent., and the others were diluted to much greater extent, containing only one-fourth per cent. Comparing the samples with the juice of the lemon, I found that the best of them must have been diluted at least with an equal quantity of water, and the others to a greater extent.

672. I presume the two per cent. represents really an important quantity in citric acid?—I believe it is the highest quantity which has been found.

673. If the quality which you speak of contained only one per cent., I presume it would be very ineffectual for the purposes for which it is administered on board ship?—One per cent. is the quantity stated for the making of artificial lime-juice; the best of the samples sent in, I found not to contain one per cent.; taking the artificial lemon-juice as the standard of comparison, I found 700 grains of the lime-juice to correspond with only 582 grains of the standard solution.

674. Would that materially affect the value of the lime-juice as a medicine?—If a medical man thought he was giving 700 grains and he only gave 582, it would diminish the effect in that proportion; it being given at the rate of a pint a day, and sometimes more in certain acute diseases.

675. Mr. *Sheridan.*] Would not medical men be aware that the full percentage would not be there?—I should say not; they would take their knowledge principally from books.

676. *Chairman.*] They would assume that it contained the full quantity, unless they tested it?—Yes; if they referred to the statements in standard works, they would believe they were giving nearly two per cent.

677. Have you found that to be the case in many instances?—In nearly all the samples of lime-juice it was the case.

678. Mr. *Moffatt.*] You believe that the deficiency which you found to pervade all those samples, allowing it to be a deficiency, is one which applies generally, but which is unknown to the faculty?—Quite so.

679. The faculty never take any trouble to analyse drugs to know whether they are pure or mixed?—Quite so.

680. *Chairman.*] Will you mention some other leading articles which you have examined in the same way?—The next thing which I examined was a chemical preparation, an article of the Pharmacopœia largely used in febrile diseases; the sweet spirit of nitre. This sweet spirit of nitre, if carefully prepared, should be an ethereal preparation, and entirely free from water; when water is added to it, it undergoes decomposition; a free acid is produced, and quite a different compound is the result. I have notes of no fewer than five samples of sweet spirits of nitre, and only two of them were of a genuine quality.

681. What was the condition of the other three samples?—Of the other three samples, one was diluted with water, that contained a great quantity of free acid; its specific gravity was increased. The other two were slightly acid, and merely badly prepared; they contained no water.

682. In what disorders is sweet spirit of nitre used?—It is used in a great many diseases; chiefly as a sudorific in febrile disorders.

683. I presume those samples which you spoke of would produce very little effect?—They would produce a contrary effect to that which was desired.

684. If a medical man were administering them for the purpose of producing a sudorific effect, he would find his preparations produced a very different effect?—Yes; instead of giving an ethereal preparation, he would be giving a preparation containing nitrous acid. The next article I examined was the solution of ammonia.

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685. For what purposes is that used?—As a stimulant, principally as an external application. It is ordered in the Pharmacopœia of two strengths, a stronger and a weaker solution. The stronger solution should contain 30 per cent. of ammonia; the weaker solution should contain about 10 per cent. Out of the numerous samples which were sent in, there were only two which were of the genuine strength.

686. Of both kinds?—Yes; many of the samples of the weaker solution were labelled as of the greater strength; showing that if we had followed the directions of the Pharmacopœia for diluting that twice with water, we should have obtained a solution of ammonia which was of no value at all; one, indeed, which was labelled as of the stronger strength, had itself been diluted, and contained only six per cent.; still being labelled as the stronger solution of ammonia.

687. Mr. *Sheridan.*] Were all those samples which were sent in of the same price?—The prices varied; the curious fact was, that that which contained only six per cent. bore the highest price.

688. Mr. *Moffatt.*] The vendors, relying upon the ignorance of the people at the institution, leaving them to accept the inferior quality?—Quite so.

689. Mr. *Sheridan.*] Are not they aware that you always examine the drugs?—They were not aware of it at that time; that is one of the points I wish to bring before the Committee.

690. *Chairman.*] With respect to other articles besides solution of ammonia, have you turned your attention to the price as well as to the quality?—Yes.

691. What has been the result of your examination?—The result that I have arrived at is this, that those who supply the most genuine articles are generally the most liberal in their prices.

692. Their prices are the most moderate?—Yes; showing that the adulteration is practised for the purpose of gain.

693. Mr. *Kinnaird.*] How long has the hospital with which you are connected adopted the system of a check upon the drugs?—From the first. I am now speaking of the first examinations, which took place in 1851.

694. Mr. *Wise.*] You mean to say that the adulteration of drugs does not arise so much from competition, as from intentional dishonesty?—The intention of making a greater gain.

695. *Chairman.*] What other articles have you examined?—The next article that I examined was chloroform, a most important article, inasmuch as it is administered in most surgical operations.

696. And the application of it is at times a very critical matter?—A very critical one.

697. Will you state the result of your examination?—The result was that there was not a single sample sent in, in the first instance, which was fit to be administered.

698. They were not simply adulterated, but to such a degree that they were not fit for use?—They were not fit for use. That may arise from the article undergoing a spontaneous decomposition. If it is badly prepared in the first instance, or when it contains any of the contaminations which arise in the process of manufacture, it undergoes spontaneous decomposition.

699. Could you distinguish between those samples which were adulterated, and those which were deteriorated?—Yes: I drew up a short sketch for the guidance of the Drug Committee, which, as it is not very long, I will beg to read: "Chloroform should have a specific gravity, according to Liebig, of 1·480, but is now almost constantly produced by Soubeiran at 1·496; Dr. Simpson says 1·500. It is in such great demand that it is empirically manufactured by persons that know nothing of its composition, and it is rare to find a sample absolutely pure. There has been found, in different specimens, alcohol, chlorine, hydrochloric acid, hydrochloric ether, and compounds of methyle, besides water and fixed substances. Chloroform may be good that has a specific gravity of 1·480, if it will stand the following tests, but it is better to have it of a higher specific gravity. It ought to evaporate entirely on the hand without leaving any odour; it ought to give no reaction with neutral litmus paper, or nitrate of silver; put into a graduated tube, then shaken with twice its bulk of distilled water, and allowed to stand two or three hours, it ought not to diminish sensibly in bulk; when put into a tube, in contact with concentrated sulphuric acid, the acid ought not to become blackened. If chloroform

chloroform will stand these tests, all easy of practice, the medical man may safely rely on it. It should be kept in a well-stopped bottle in a darkened cupboard." The light causes it to decompose; and putting our own samples through those tests, I found none of them would stand them.

700. Mr. *Kinnaird.*] Now you find it to be otherwise?—I re-purified the samples which were for use in the hospital, and we had not a single accident all the time I was connected with the staff, although it was administered in many serious cases. With respect to hydro-chloric acid, which is given largely as a tonic to patients, the first sample which we had sent in to us contained four or five grains of arsenious acid in the fluid ounce. Among our opiums I found some of them were really adulterated with extraneous matters, poppy capsules, and sand, and powder of all kinds; but the great mass of the samples which were sent in were of a very fair quality.

701. Were those which were adulterated seriously so?—Very seriously; some to the extent of 75 per cent.

702. That opium would have been useless?—Yes.

703. Mr. *Sheridan.*] Do you suppose that opium to have been adulterated in this country?—No; I should think it was adulterated abroad.

704. Mr. *Otway.*] Was this East India opium?—Smyrna opium.

705. Was East India opium adulterated?—We have no samples of East India opium.

706. Mr. *Wise.*] Opium of necessity is adulterated, if I may so use the expression, to some extent, is it not; it must be mixed with something to enable it to form a mass?—I believe it may be inspissated to such a substance as to be sent here without the admixture of any impurity.

707. Mr. *Moffatt.*] Have you ever known opium to be imported into this country without any impurity?—I do not know it for a fact.

708. *Chairman.*] You have given us the result of your examinations in 1851, and probably for some short time subsequently; will you now favour the Committee with the result of your examinations when it became known to those who supplied drugs to the hospital that an analysis was uniformly practised?—The first result was, that some of those who supplied the hospital withdrew from the competition, and amongst them those who had supplied the adulterated articles.

709. They never sent again?—They did not wish to continue the supply to the hospital. With respect to others, I found the articles which had been of an inferior quality were improved, and chemical products were sent in nearly always in a very pure state.

710. Have you found that to continue up to the present time?—It has, I believe, continued up to the present; I am not the dispenser now. I have been appointed to another office; but I believe the system has continued, and has been found very beneficial.

711. You trace to the fact, that the dealers know that an analysis will take place, the improvement of which you speak?—Quite so.

712. Have you turned your attention also to other adulterations than those of drugs and medicines?—I was consulted by the house and finance committee with respect to several articles supplied as articles of food; the bread was of a very good quality; all the samples which were sent in for competition were of a very good quality. Some of the samples of milk were diluted, and one sample that I examined contained chalk; that was the only instance in which I have found chalk.

713. Was all this milk supplied at the same price?—That was not my department; I had simply to make a chemical report upon the articles.

714. Mr. *Moffatt.*] What per-centage of chalk did you find in the milk?—A very small quantity at the bottom.

715. Mr. *Otway.*] Was the bread all good?—I found starch granules of the potato in every specimen; I have never examined a specimen of bread in which I have not found starch granules of the potato.

716. *Chairman.*] Why is potato starch used?—Potatoes are supposed to give the bread a lighter appearance.

717. Is it used in small quantities?—Yes.

718. Mr. *Kinnaird.*] There is no objection to that in point of health, is there?—None at all.

719. Mr. *Moffatt.*] It is rather beneficial to have the bread lighter, is it not?—It is.

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720. Mr. *Wise.*] You have not mentioned the article of rhubarb, which is very largely used in this country; have you had your attention directed to that?—Yes.

721. Have you found it largely adulterated?—No; we used to get the root and make the powder ourselves.

722. Are you not aware that a very large quantity of rhubarb is grown in this country for the express purpose of being used by the grinders to mix with the foreign rhubarb?—I do not know for what purpose they use it, but I know it is grown to a great extent. In fact, on the recommendation of Dr. Pereira, and the authorities at the London Hospital, it was tried at our hospital as a cheap substitute for the other; it may be procured at 3*d.* a pound, whereas the other is something like 3*s.* The effect, however, was so different that a member of the drug committee observed that he had to give his patients a rhubarb pudding before he could make it act, so that its use was abolished.

723. Have you ever heard that rhubarb has been mixed with flour and turmeric?—Yes, I have.

724. Can you state any cases which have come under your knowledge?—I have not examined them because, as I before observed, at the hospital we obtained the root rhubarb.

725. Is not it the case that English rhubarb is largely used in London by grinders to mix with foreign rhubarb?—I have no experience of it.

726. Mr. *Kinnaird.*] Your experience is probably confined to experiments made while in connexion with the hospital?—Not entirely. I have had 15 years' experience in the study of medicine, and pharmacy, and chemistry, both in London and Paris, but not in connexion with any wholesale drug-grinding department.

727. Mr. *Wise.*] What do you suppose an individual at Banbury should grow 20 tons of roots in a year for, if it is not to be used for mixing with the foreign rhubarb?—I think it was greatly cultivated on the strength of Dr. Pereira recommending it.

728. Are you aware that since it has been discountenanced the quantity grown is much less?—I am not aware that it has been discountenanced; it is, I believe, still used at some of the London Hospitals.

729. Mr. *Otway.*] You have mentioned that you have had some experience in Paris; did you make any analyses while you were employed there, of articles employed either as drugs or as food?—Yes.

730. What was the result?—The result was that I never found an article which was adulterated.

731. Neither a medicament nor an article of food?—No.

732. *Chairman.*] To what do you trace that difference?—I trace it, in the first place, to their superior education. The parmaceutists there are obliged to undergo an examination before they can obtain a licence to practice their profession of pharmacy; and, in the next place, they are visited annually by a Board of Examiners.

733. Mr. *Moffatt.*] What articles of food did you test in Paris?—I did not test articles of food; I only tested drugs.

734. Your examination was confined to drugs?—Yes, at Paris.

735. You are not prepared to give the Committee any evidence as to the purity, or non-adulteration of food, in Paris?—No.

736. How does the examination take place, on the part of this board of inspection, in Paris?—They come in without any previous notice. Five or six of the professors of the different schools are united for the purpose, and they ask for any article which is supposed to be found in the shop of a pharmaceutist and ordered by the Codex, and if they find it to be of an inferior quality, or adulterated, they throw it into the street publicly. If such a thing happens a second time, the shop is closed, and notice is put up; and if a third time, the licence to practise is taken away.

737. Mr. *Wise.*] I believe in this country the College of Physicians have the power to visit the shops of chemists and druggists?—Only in the city, I believe.

738. Do they carry out such inspection frequently?—I believe they do.

739. What would be done if any adulteration were discovered?—I do not know to what extent they carry out their authority.

740. Do you think it would be desirable to adopt the French system, and require all chemists and druggists to have licences?—I think so.

741. And

741. And to carry out the system of inspection?—Yes; I think so.

742. Can you suggest any other mode by which the public may be protected against such frauds?—From my experience of the effects produced at St. Mary's by a quarterly examination of drugs, and refusing those which were of inferior quality or adulterated, I should say that if there were a central Board to which reference might be made, and by which in case of fraud being proved, punishment might be awarded, it would materially tend to diminish the system of fraudulent adulteration.

743. Do not you think we might with advantage adopt the American system of checking adulteration, by looking after the importation of drugs?—I think that is a point of the first importance.

744. At present there is no check whatever, is there?—I am not aware that there is.

745. In fact you think the public health is so much injured by the adulteration of drugs, that it is the duty of any government or legislature to take care that the public health should be protected by checking the importation of adulterated articles of medicine?—Quite so.

746. Mr. *Kinnaird.*] In a previous answer you used the word "fraudulent," do you do so advisedly; from your experience do you believe that this is done with a view of fradulently imposing upon the consumers?—I quite think so. I think there are cases in which ignorance may have some effect in producing an inferior article. I know an instance of a man who knew nothing of chemical manufacture attempting to make chloroform; he sent out as chloroform the liquor that floated on the top, and threw away the chloroform itself.

747. Still you consider that in the majority of cases it is fraudulently done?—Certainly not. I believe, in the majority of instances, impurities arise from carelessness or want of knowledge in their preparation; fraudulent adulteration I believe to be the exception.

748. *Chairman.*] You admit that some impurities will arise in chemical compounds from the imperfect manner in which they are prepared?—Yes.

749. Independently of that, do you think that adulterations take place with a view simply to increase the dealer's profit to the disadvantage of the compound itself?—Yes, I cannot help thinking so, when I see an article containing 30 per cent. of ammonia charged only 6 *d.*, and I find another containing six per cent. charged 8 *d.*

750. Mr. *Otway.*] Are you acquainted with the system of drug grinding in France; is it the same system as obtains in this country?—No.

751. Will you explain the French system?—The French system is, that every pharmaceutist grinds his own drugs.

752. Every chemist is a drug grinder?—Yes.

753. So that drugs pass only through one hand?—Yes.

754. Mr. *Moffatt.*] Is that under any regulation, or is it merely the usage?—It is the usage, in order to insure purity.

755. There is no Government regulation to that effect?—No.

756. Mr. *Wise.*] If a man sells adulterated articles he is punished for it by his licence being withheld?—He is.

757. Mr. *Moffatt.*] You say that if a man sells adulterated drugs on a second occasion his shop is shut up; under what power is the shop shut up?—In the first instance, I think such parties are brought before the tribunal of Correctional Police; if found guilty the Prefect of Police affixes his seal to the door, with a general notice of the fraud. I have seen a butcher's shop there closed.

758. Does that system obtain in any other city in France besides Paris?—I think all over France.

759. Even the villages?—Yes.

760. Mr. *Otway.*] Are you acquainted with the chemists in the provincial towns in this country?—Yes.

761. Do you think, in any ordinary-sized town, the chemists would be capable of deciding upon a question of adulteration at once, looking to their knowledge and their character?—Not from my experience of their knowledge; there is a better class of chemists now rising up, under the direction of the Pharmaceutical Society; and when we have a set of chemists who have been regularly educated there, they will be quite equal to any French pharmaceutist.

762. Mr. *Moffatt.*] Your impression is that any student who has obtained a degree from the Pharmaceutical Society is quite competent to apply tests, to discover

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discover whether the drugs you have enumerated are pure or not?—Yes, quite so.

763. What is the number of students of the Pharmaceutical Society?—I do not know.

764. *Chairman.*] Have you examined beer?—Yes; I have had several samples brought me to examine; the result was that I have not found it adulterated to the extent it has been supposed to be.

765. Has it been adulterated at all?—Some of the samples have been diluted, others undoubtedly contained some narcotic principle; the effect produced was not that of alcohol.

766. Mr. *Kinnaird.*] What do you think was the narcotic principle?—Cocculus indicus, very likely; I could detect no trace of opium; it might have been tobacco; but the effect was a paralysis of the system, an inability to move, without an entire insensibility of the intellect.

767. Have you ever heard of any patient brought into the hospital of St. Mary, who was suffering specifically from having taken some adulterated article of food or drink?—I think not.

768. Mr. *Moffatt.*] Have you ever known any person who has become partially paralysed by drinking of this beer which you believe to be adulterated?—I have, myself, from tasting it; not finding any chemical substance, I took a glass of it, and I became so confused and so ill that I had no doubt there was either tobacco or cocculus indicus.

769. Would tobacco produce that effect upon the human system?—It would.

770. Viscount *Goderich.*] When you speak of partial paralysis you do not mean a paralytic stroke, but merely a state of stupor?—Quite so; a state of stupor, amounting to partial insensibility.

771. Mr. *Moffatt.*] How many samples of beer which you tested had this paralysing ingredient in it?—Two.

772. Out of how many?—I should think I have examined some hundreds.

773. Would not pure malt and hops have rather a narcotic influence upon many systems?—I am not aware that it would.

774. *Chairman.*] You would have no difficulty in distinguishing the effect of a narcotic drug and the effect of alcohol?—None.

775. Mr. *Sheridan.*] Have you found much sugar in porter, so as to produce a froth?—No, I have found a little mucilage.

776. Mr. *Moffatt.*] You stated that the beer was diluted with water; by what means have you tested its being diluted with water?—I tested for the amount of alcohol.

777. What amount of alcohol do you say beer ought to contain?—A good beer, such as stout or strong ale, should contain from four to six per cent.; good porter would contain about two per cent.

778. What per-centage of alcohol did those which you believed to be adulterated contain?—Less than one per cent.

779. Would not it be quite possible that pure porter should contain only one per cent. of alcohol?—I never found it to be so.

780. Is there any regulation strength which enables you to detect whether the porter has been adulterated with water or not?—No.

781. Then how do you arrive at the fact that it is diluted?—I take it from the average which is observed at good breweries.

782. *Chairman.*] Do you take the average quantity and the average price, and do you consider that to be the standard, and, comparing it with other qualities, arrive at the conclusion that those which are sold at the same price, containing much less alcohol, must necessarily be adulterated with water?—Quite so.

783. Mr. *Moffatt.*] You say you take the average of the strength of the various breweries in London; what is the result of the average which you have so taken?—The average would be just what I have stated, about two per cent. for porter, and from four to six per cent. for stout and strong ale.

784. Stout contains double the quantity of alcohol that porter does?—Yes.

785. Have you found much variation in the strength of beer brewed at different breweries?—No.

786. Generally, the porter of the London brewers contains about the same quantity of alcohol?—Yes.

787. *Chairman.*] Have you examined wine at all?—I examined a sample of port

port wine not long ago, which was brought to me, supposing it to be adulterated. It was a wine for which a good price had been paid; but it had been laid down in bottles for two or three years, and it still remained turbid, and had a musty taste, as if it were undergoing some decomposition. I found that so far from its being adulterated, it was a very natural wine, a very good wine indeed; the only fault was, that it contained an excess of acid, which no doubt it had in its natural state; but this excess of acid prevented the crust from being deposited, which is the bitartrate of potash. As soon as I added a neutral salt of potash to it, the bitartrate was formed, and it was all precipitated together, the wine was cleared, and it was pronounced one of the best wines the club possessed in their cellars.

788. Have you examined any other wine than port wine?—I have examined sherries.

789. Have you found them generally pure?—Yes.

790. The Committee has heard, among other things, that Cayenne pepper is adulterated?—I was consulted not long ago in a case in which a lady had been taking Cayenne with her fish, and having become very ill she had the colic; she thought at first she had the cholera, but it was only the colic. The medical man asked to see her Cayenne pepper, and sent it to me for analysis, and I found a great quantity of red lead in it; it was visible with an ordinary glass.

791. Mr. *Moffatt.*] What per-centage of red lead was there?—I did not estimate the per-centage; I ascertained it was there.

792. *Chairman.*] In dangerous quantities?—It looked as if it had from two to three per cent.

793. Would you consider that a dangerous quantity?—I should think so.

794. You have no doubt that the illness in this case was produced by the adulteration?—The medical man had no doubt of it.

795. Is that the only sample of Cayenne pepper which you have examined?—I never found a specimen of Cayenne pepper sent to the hospital as a sample adulterated with red lead.

796. Have you found it adulterated with anything else?—No, it was generally pure. That again is a question of importation, as I understand it. From the inquiries which I have made, the Cayenne is adulterated in the markets abroad.

797. Is Cayenne imported in its ground state?—Yes.

798. Always?—Not always; but to a great extent it is.

799. Where does it come from?—From South America.

800. It comes from other places besides Cayenne?—Yes, from other places.

801. The general effect of your evidence is to show that adulteration is practised, though not universally, to such an extent as to justify the Legislature in endeavouring to devise some means of preventing it?—Yes.

802. Mr. *Moffatt.*] Does your evidence apply to articles of food, or mainly to drugs?—My experience has been greater with regard to drugs.

803. Mr. *Otway.*] Has your experience extended to such articles as pickles, and jams, and sauces?—I have not examined them.

804. Mr. *Moffatt.*] Does it extend to such articles as tea, coffee, and sugar?—I have examined many samples of coffee, but I have never found any chicory with it when it has been stated to be pure.

805. Have you found any other substances besides chicory and coffee in articles sold as that mixture?—No.

806. Mr. *Otway.*] Were the samples which you examined purchased in the smallest shops in the worst districts in London?—No; on the contrary, they were purchased in good respectable shops.

807. You have never made any experiments upon coffee purchased in the smaller shops?—No.

808. Mr. *Moffatt.*] Have you ever analysed any samples of sugar?—No.

809. Of tea?—No.

810. Still you are of opinion, according to your answer given to the Chairman, that articles of food are so much adulterated as to warrant some description of Government interference?—I think so.

811. And you base that opinion upon having discovered some slight adulteration of milk, an instance of Cayenne pepper being adulterated, and two samples of beer out of a considerable number which you tested?—Although I have not

actually examined them professionally, yet my experience would go to show that many articles of food are offered for consumption which are quite unfit for consumption; articles of meat and vegetables, for instance, I have seen constantly in a state of decomposition, such as ought not to be allowed.

812. When the articles of meat and vegetables are in a state of decomposition, that is palpable to the buyer?—The poor people buy them all the same, and are injured by them.

813. They have as ready a means of testing whether they are in a state of decomposition as you, who are a highly informed chemist, have?—Perhaps so.

814. And they pay a price accordingly, I presume?—No doubt.

815. Mr. *Wise*] You have paid attention to the article of bread, have you not?—Yes.

816. Can you suggest to the Committee any very easy or simple mode of ascertaining the quality of bread, and whether a loaf contains anything else but flour in it?—I think the microscope is the most simple and ready test; it is applied almost instantly; whereas the chemical test requires some time.

817. *Chairman.*] Are you aware of the nature of some evidence which was given before the Committee two or three days ago with regard to alum being mixed with bread?—No; I have not seen the evidence.

818. The effect of that evidence was to show that the introduction of alum was not injurious, because the alum itself became decomposed into its three component elements, and in that condition could not produce the effect upon the constitution which alum would do in its combined form?—My experience would lead me to the same result; although I have found small traces of alumina, I have never in any instance found alum, which is a very different thing; it is a compound body, and soluble; whereas the other is insoluble, and united with the albuminous matters in the bread.

819. Whatever the effects of alum may be upon the human body, when heated in the process of manufacturing bread, your opinion would be that those injurious effects would be materially diminished, if not removed by that process?—They may be diminished; I will not say removed.

820. Mr. *Peacocke.*] In order to effect that decomposition of the alum, must not it be subjected to a much greater amount of heat than is usual in baking a loaf of bread?—No; I suspect that the mere fact of mixing it with an albuminous compound, such as flour, would of itself decompose it.

821. What amount of heat should you say would be sufficient to effect the dissolution of the alum into its component parts?—I should say that heat at the boiling point would be sufficient when mixed with flour and water.

822. Mr. *Moffatt.*] Have you ever discovered any traces of tobacco used in adulterating beer?—No.

823. Mr. *Wise.*] By the evidence you have just given, you do not mean to say, do you, that alum is not injurious in bread, though it be dissolved into its component parts?—By no means. I wish to give no opinion upon such a subject.

824. Have you any idea of the object the bakers have in putting alum in flour?—It prevents a bad flour from undergoing decomposition afterwards, when made into bread, so rapidly.

825. You say you have been in Paris?—Yes.

826. Are you aware that the bakers there are under the control of the municipal authorities?—Yes.

827. Do you think arrangements might be made by which the bakers of this country might be subjected to the same kind of supervision with advantage to the public?—I am not sufficiently acquainted with the Paris regulations to speak of them, nor can I say how far the English character would bear those which exist in Paris. Their organization is so much more complete, and they are educated to be under the control of the police.

828. Still, do not you think the public health and the protection of the great masses of the people is so important an object, that Parliament is bound to look after it?—My opinion is founded in a great measure upon what I have seen at Paris, and St. Mary's Hospital; and I think, as I said before, a Board of Reference, which would be able to detect adulterations which were injurious to the public health, and might inflict some penalty when they were discovered, would materially diminish fraud.

829. Comparing the bread in England and in France, which do you think is the better?—I should much prefer the French loaf.

830. *Chairman.*]

830. *Chairman.*] On what ground?—It is lighter; I do not know that I ever suffered indigestion from eating a French loaf.

831. Mr. *Moffatt.*] Have you ever analysed the French bread?—No.

832. Possibly it may have a little more of potato starch in it to make it lighter?—It is possible.

833. *Chairman.*] To what do you attribute the difference?—I speak only of my personal experience; the experience of my own feelings.

834. Mr. *Moffatt.*] May not the superior quality of the atmosphere in Paris cause the digestive organs to work more favourably for your own comfort?—That may have had some influence.

835. *Chairman.*] May not it be that the French flour is more easily ground?—There is no doubt the French loaf is lighter than ours.

836. Have you ever found an instance of plaster of Paris being mixed with bread?—I have heard of it, but I have not met with an instance of it.

Mr. *William Bastick*, called in; and Examined.

837. *Chairman.*] ARE you a Chemist and Druggist resident in London?—Yes; also an analytical and consulting chemist.

838. Residing in Brook-street, Grosvenor-square?—Yes.

839. You have, I think, published some work?—I edited for several years a work which was devoted to chemistry and pharmacy.

840. You have had, consequently, a very large experience in the examination especially of drugs and medicines?—Yes.

841. Will you favour the Committee with your views, in the first instance, as to whether adulteration in these articles is common?—I believe it is very extensively practised, both with respect to drugs and chemicals.

842. Do you believe that adulteration takes place abroad?—It takes place abroad, and it also takes place at home, both by wholesale and retail dealers.

843. In what articles do you suppose adulteration takes place abroad?—In crude drugs, such as scammony, for example; that comes generally into the market in an adulterated state.

844. What is the nature of the adulteration?—Principally chalk and flour, or some starchy substance.

845. Is there any other article you can name which comes in an adulterated condition; is opium, for instance, much adulterated?—Not so much so as has been represented before the Committee; it is naturally a mixed body, and therefore many persons think it is impure, but it comes here generally, with the exception of a few leaves and portions of the capsules, as it exudes from the poppy.

846. You consider opium tolerably pure?—As a general rule, it is tolerably pure; infinitely superior to scammony; especially to what scammony has been.

847. With respect to the adulterations which are practised at home upon drugs, have you any information to give the Committee?—I have a list before me which principally refers to those substances which are what I would term fraudulently adulterated; many bodies I can name contain impurities which some persons may suppose to be adulterations; but these are cases in which substances are actually added for the purpose of fraudulently adulterating the drugs, either in the process of manufacture or afterwards.

848. Some of the mixtures which are called adulterations you consider to be the results of imperfect manufacture?—Yes, not with a fraudulent intention.

849. Independently of those imperfections, are all the adulterations which you are now going to lay before the Committee of a character which you deem fraudulent?—Yes.

850. Will you state the articles to which you wish to refer?—The first article I will allude to is one which is largely used in agriculture, that is sulphate of copper. I have repeatedly examined it, and found it to contain sometimes 50 per cent. of sulphate of iron.

851. Which would materially impair its usefulness?—Exactly so.

852. Sulphate of iron being cheaper than sulphate of copper?—Yes; the object being to reduce the price.

853. Was the article adulterated sold at the same price as the genuine and pure article?—No; there was generally a great disparity in point of price between the two articles.

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854. The adulterated article was very much cheaper than the other?—Exactly so. The next instance I wish to allude to is the adulteration of essential oils with turpentine and other volatile and fixed oils; this is constantly the practice both at home and abroad: at home by the wholesale druggists, and abroad by the manufacturers.

855. Will you name any other article?—The next article I allude to is the adulteration of musk: that is carried on both at home and abroad.

856. With what is it adulterated?—Abroad with lead, dried blood, and other substances, and at home I have found it to be adulterated with mahogany dust. The hairs from the tail of a horse are cut into pieces, so as to represent the hair which covers the pod from which it is obtained.

857. Is that sold at the same price as genuine musk?—The object is to impose upon the customer and make him believe that it is the same, and therefore it may be sold at the same price. The next article is sweet spirits of nitre, which is adulterated with alcohol and water.

858. Is there any standard of strength for sweet spirits of nitre?—There is the pharmacopœia, which ought to be the guide.

859. There would be no difficulty in the detection of that adulteration?—No. The next article is a substance which is largely used in this country, termed white precipitate. I have found that not only largely adulterated, but sometimes absolutely containing no white precipitate whatever. That is effected by mixing corrosive sublimate with chalk or some other substance of an inert kind; the corrosive sublimate is to produce the active effect, and the chalk is the mere material to contain it. Red precipitate I have also found largely adulterated with red lead, as much as one-third has been red lead.

860. Would that be a dangerous admixture?—Not so dangerous as in the case of the white precipitate.

861. Mr. *Cowper.*] Do you think, if the white and red precipitate were imperfectly mixed with the chalk and the other articles, they might act separately without the dilution of the chalk?—Yes.

862. And therefore lead to very injurious consequences?—Certainly. The next article I have found adulterated is saffron, with saff-flower, an article used by dyers, and which is a much cheaper article. Wax is adulterated with spermaceti almost constantly, or with some cheaper kind of fat. Creosote with carbolic acid; that is a very common adulteration or substitution.

863. *Chairman.*] For what purpose is creosote used?—It is used very largely by the public in cases of toothache, and frequently for internal administration; the effect of the adulteration would be, that it would have a totally different action. Honey I have found frequently adulterated with flour and sugar, or syrup, that is of course a solution of sugar and water; in fact it is constantly to be met with in London so adulterated. There is a class of bodies I should wish particularly to draw the attention of the Committee to, which is a series of powders vended by wholesale druggists, which they are pleased to term compound powders. Those powders if they were properly designated, would be called adulterated powders. They are obliged to use a term in contradistinction to that of compound powders, and they employ the word "*verus.*" If, for example, you wished to order genuine aniseed powder, you would ask for *pulvis anisi verus*; but if you wanted the adulterated powder, you would ask for *pulvis anisi compositus.* The most frequent instances of these adulterated powders are aniseed, carraway seeds, fenugreek seeds, liquorice, gentian, turmeric and stavesacre. The recipe which I propose to read to the Committee for compounding one of these powders is only a type of many others. It is in a book which I have in my hand, which belonged to a person who used to manufacture these powders who is now dead, and therefore I feel no delicacy in reading it. The following are the materials for making compound gentian powder: true gentian, 1 lb., linseed, 5lbs., flour, 2 lbs., cape aloes, to give the bitterness, a sufficient quantity; that is the recipe employed to make gentian powder *compositus.*

864. If I understand rightly, there are 7 lbs. or 8 lbs. of material, having only 1 lb. of the genuine article in it?—Yes.

865. Mr. *Sheridan.*] Who are the parties who apply for *pulvis compositus?*—The retail druggist; it is a conventional term between the retail and the wholesale druggist, invented to avoid the disagreeableness of talking about adulterated articles.

866. Any medical man using gentian made up according to that receipt, would find his expectations totally fail?—Entirely.

867. Mr. *Sheridan.*] The wholesale druggist compounds the powder?—In most cases it is done by him, or by the drug grinder on his behalf.

868. *Chairman.*] What would be the relative selling price of the true gentian and the *compositus*?—A wholesale druggist would speak to that better than I can; of course there is a considerable reduction. I will mention one other instance of the composition of a compound powder, that is turmeric: common ochre, 1 lb., true turmeric, 1 lb., flour, 2 lbs.

869. That is in the proportion of one to four?—Yes.

870. You alluded just now to the use which has been made of the term "conventional adulteration;" do you consider the practice you have now referred to as conventional between the druggist and the drug grinder, or between the wholesale druggist and the retailer?—Yes, between the wholesale druggist and the retailer; certainly not as regards the public.

871. The drug grinder and the retailer understand each other, and therefore it may be said to be a conventional arrangement between them; but do the public, when they purchase these powders, understand that there is this admixture in the one case of four to one of foreign material, and in the other of seven to one of foreign material?—Certainly not.

872. Does a medical man who prescribes those powders expect to find those proportions?—Certainly not.

873. Then, although this may be a conventional matter between a portion of the trade, the public is literally defrauded?—Undoubtedly; nor do I believe that the public in any instance are a party to any adulteration, or willingly purchase an article which is adulterated.

874. Mr. *Sheridan.*] The prescription of the medical man is not complied with in those cases?—Certainly not, when one thing is substituted for another.

875. *Chairman.*] You have hitherto principally spoken of the adulterations practised by wholesale druggists and drug grinders; are you acquainted with the practice of retail dealers?—In some cases, in the case, for example, of sweet spirits of nitre, the adulteration is also practised by the retailer. The case which I am going to mention was practised by the retailer, at least I presume it was: he sold bisulphate of soda for tartaric acid, which was a case of substitution; I understand that that is very extensively done by some parties.

876. Is that ever used medicinally?—It is.

877. Do you think the class of retail chemists generally would be able to detect adulterations in the articles they sell?—Not at the present time.

878. They are not sufficiently educated to do so?—There are many who can, but the majority cannot.

879. Many chemists at the present day may be selling adulterated articles without knowing it?—Unquestionably.

880. At the same time, do you believe that many are selling adulterated articles knowing the facts?—Certainly.

881. Have you turned your attention to the means which might be adopted to prevent those adulterations?—Yes; my idea upon that point is, that the Legislature ought to interfere. There ought to be some body of persons appointed to inspect, from time to time, according to circumstances, articles of food, as well as drugs and chemicals; and I believe the moral effect of that would be, independently of the actual cases where detection took place, to prevent men either selling adulterated articles or effecting adulterations. When the "Lancet" investigations were going on, such was the terror which traders felt of having a visit from the "Lancet" commissioners, that those who had been in the habit of adulterating left off doing so. In cases they have since resumed it, having no fear of the surveillance they were before subjected to.

882. Viscount *Ebrington.*] Are you aware what success has attended the measures adopted abroad for the detection and prevention of adulteration?—I have had no experience in France, but I have had some little experience in Germany. There I found, as a rule, that nothing could be better than the articles sold there in the apothecaries' shops.

883. What part of Germany do you refer to?—On the Rhine chiefly. Every apothecary is compelled to undergo an examination; his materials are subject to inspection also by a person appointed for the purpose.

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884. So that you do not consider it at all a Utopian idea that by judicious legislation we might practically obtain, not perhaps a perfect freedom in all cases from adulteration, but a great mitigation and diminution of the present system of adulteration?—I have no doubt of it.

885. *Chairman.*] Do you think any large body of inspectors would be required for the purpose of detecting adulteration?—Not a large number; I believe the benefit would arise from the moral effect; in other words, the fear of being detected would act as a bar to adulteration taking place.

886. Viscount *Ebrington.*] Are you aware what punishments are inflicted upon those who are detected in adulterating food or drugs in the part of Germany you have been speaking of?—In some cases a remonstrance or reprimand is given, and in other cases penalties are inflicted; and in some cases they go so far as to take away the right to practise as an apothecary.

887. Mr. *Moffatt.*] You have stated numerous instances of adulteration in drugs; will you go on and state what has come within your knowledge in reference to the adulteration of food sold to the public?—As regards bread, I have examined it, but I have not made so many examinations as many witnesses have. I can state, of my own knowledge, that it is almost constantly adulterated with alum.

888. Have you tested bread to find whether it is adulterated with alum?—I have.

889. To what extent is it adulterated with alum?—I should say it is generally in the proportion of about 1 lb. to 3 lbs. or 4 lbs. in 100 loaves; I am speaking without the actual figures before me.

890. That is an average of 2 lbs. in 400 lbs. weight of bread?—Yes.

891. Is it your opinion that that would be prejudicial to the general health of persons constantly eating that bread?—I think so.

892. What other articles of food have you analysed?—Cayenne pepper I have examined, and I have found red lead in it.

893. Have you examined many samples of Cayenne pepper?—Not numerous samples.

894. The samples you have analysed, you have generally found pure, with the exception occasionally of red lead?—Yes.

895. Are there any other articles of food you have analysed?—I have occasionally analysed wine.

896. What has been the result of the analysis?—Not that there has been anything prejudicial or poisonous in it, but I have come to the conclusion that many wines which are sold are manufactured articles.

897. All wines are manufactured articles?—I have a recipe here which will show the Committee more distinctly what I mean by manufactured articles. The following is said to be a recipe for making an imitation of good port wine: "Good cider, 45 gallons; brandy, six gallons; good port, eight gallons; ripe sloes, two gallons; stew them in two gallons of water, press off the liquor, and add, if the colour is not strong enough, tincture of red sanders; in a few days this wine may be bottled; add to each bottle a tea-spoonful of powdered catechu, mixing it, when it will very soon produce a fine crusted appearance. The bottles being packed on their side as usual, soak the ends of the corks in a strong decoction of Brazil-wood with alum, which along with the crust will give it the appearance of age."

898. What has been the result of that compound?—I have not mixed it.

899. Have you ever seen it?—I have seen a liquid represented as being wine, which I believe to be a compound similar to that which I have described.

900. With respect to that particular recipe, which you have been so kind as to read to the Committee, have you ever known any liquid produced from it?—No.

901. You are not aware that it has ever been put into practical operation?—I have no doubt it has been, but I never examined the result myself.

902. Do you believe that the person in whose book that was, was in the habit of making port wine and vending it, or using it himself, of the nature of that composition?—I believe he was.

903. He was in the habit of vending it?—Yes, I believe so.

904. He was not only a chemist, but a wine-maker?—He was a general trader, such as you find in country towns.

905. Will

905. Will you go on to state what other articles of food you have found adulterated?—For instance, anchovy sauce I can speak to as being frequently a factitious article; and I have found chicory mixed with coffee.

906. Mr. *Gregson.*] In what proportions?—About 25 per cent. of chicory, I should say generally.

907. Is there anything prejudicial to the health of the public in that?—No. I myself drink chicory with my coffee.

908. Chicory mixed with coffee is, in your opinion, an improvement?—Yes.

909. *Chairman.*] I understand you to be speaking of a case where coffee was sold as pure coffee, which contained 25 per cent. of chicory?—Yes.

910. Can you state any ready means of discovering the difference between chicory and coffee?—The microscope is a very simple means of detection, and there are various others.

911. Viscount *Ebrington.*] Have you ever found the chicory which has been used to mix with coffee, itself adulterated?—I have not examined it with that object.

912. *Chairman.*] Is it your opinion, so far as your observation extends, that there is a sufficient amount of adulteration now carried on in reference to articles of food to warrant legislative interference for the purpose of preventing it?—Yes.

913. Mr. *Moffatt.*] And you deduce that opinion from the facts you have stated to the Committee?—Yes; both from my own experience and that of others.

914. What is the experience of others which you rely on?—Dr. Hassell's statements.

915. Are you disposed to endorse Dr. Hassell's statements?—Yes.

916. And Dr. Normandy's?—Yes.

917. Mr. *Gregson.*] Have the articles which you have examined been brought to you for the purpose, or have you purchased them yourself?—Some of them have been sent to me by correspondents, and sometimes I have purchased them myself.

918. Viscount *Ebrington.*] Do you see any reason why legislative interference for the protection of the public from adulteration should not be as necessary in England as it is in countries on the Continent, where such legislative interference exists?—Certainly not.

919. *Chairman.*] Have you examined the article of annatto at all?—I know it to be largely adulterated.

920. Is not it necessary, to some extent, that it should have some foreign matter introduced with it when imported?—I have heard reasons given why there should be foreign matter mixed with it, but I am satisfied that the foreign matters usually present are far more than sufficient for the purpose for which they are said to be added to the annatto. I believe if you can justify, by the reasons given, the addition of 60 per cent. to annatto, you might justify the addition of 99 parts out of 100.

921. You believe the quantity is so large that it cannot be added merely for the purpose of preserving the annatto, but that it is added for some fraudulent purpose?—Quite so.

922. Mr. *Sheridan.*] You have produced a book containing recipes, from which you have read one which professes to be a recipe for making good port wine; have the wholesale druggists generally a book similar to that?—I believe every manufacturing druggist has a similar kind of book, from which he makes his compositions.

923. How did that book come into your possession?—After the death of the person to whom it belonged.

924. Mr. *Moffatt.*] It is a general practice with wholesale druggists to have a book of that kind, is it?—I am sure a great many of them have.

925. Mr. *Gregson.*] Is that a book which is published?—No; there is a work of that kind called Gray's Supplement to the Pharmacopœia, but the receipts for adulterating are not to be found in the present edition; the former editions contained all kinds of directions for adulteration, but Professor Redwood, who has been a witness here, was the last editor of the Supplement, and he suppressed this part of the publication.

926. *Chairman.*] Who was the author of the publication to which you refer?—Mr. Gray.

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927. What was Mr. Gray?—He was a pharmaceutical chemist, part of his life, in Bond-street.

928. Is he alive?—No; he has been dead for some years.

929. Under what circumstances did his publication come before the public?—It came before the public under the title of a "Supplement to the Pharmacopœia." In that book were contained recipes for making various preparations, and also for adulterating all kinds of substances.

930. Mr. Redwood was the editor of the last edition of the Pharmacopœia, and he suppressed those recipes which taught people how to adulterate drugs?—Quite so.

931. Is that work in existence?—Yes; it can be got very easily.

932. You have alluded to the Pharmaceutical Society; is it your opinion that that society is now working a great amount of good?—I believe it is; and I believe if Parliament gave to it greater powers it would do much more.

933. What is the number of students?—There are generally from 30 to 40 there at a time.

934. Do you know what supervision is exercised by any public body in this country over druggists?—The College of Physicians has the power of visiting chemists' shops in the city of London, but not further; I believe they carry that out twice a year.

935. Do you think that power is exercised beneficially at the present time?—I think not, because the examination has been so superficial; their examinations, so far as I have been able to observe them, would lead to nothing; it requires the use of test tubes and other means to detect these adulterations; they are seldom evident to the naked eye.

936. Mr. *Gregson.*] Do not they take away some articles to analyse?—I have never observed them to do so; I have heard that they do in some cases.

937. *Chairman.*] Do they come at fixed periods?—No; you do not know when they are coming.

938. Do you think such an examination would be beneficial if conducted in a more formal and minute manner?—Yes; I think there should be paid officers who should devote their whole time to the performance of that duty, and do nothing more.

939. Those are not paid officers?—No, they are the censors of the college, or some committee appointed for the purpose.

940. Viscount *Ebrington.*] Do you believe that the check of exposure and publicity would of itself go a long way to deter people from those practices, independently of any punishment which might be inflicted upon offenders in the way of fine or imprisonment?—Yes, I have no doubt of it; but I think also some punishment ought to be inflicted.

941. When the officers of the College of Physicians detect any adulteration, what is the punishment which they apply to the parties practising it?—I do not think I recollect any instance in which they have inflicted punishment, except perhaps by the destruction of drugs.

942. Mr. *Moffatt.*] You have read a recipe for making an imitation of port wine; is it your opinion that that would be a prejudicial beverage to drink?—No, I do not know that it would.

943. It could of course be produced at a much cheaper rate than port wine, and you think it would have a cheering stimulating effect?—Yes.

944. *Chairman.*] Is it not your opinion that to sell that mixture under the name of good port wine is a gross fraud?—Certainly it is.

945. Mr. *Moffatt.*] If the persons who make it, sell it under the name of good port wine, at 12 *s.* a dozen, can you call that a gross fraud?—I think it would be a fraud to sell anything under a name which does not belong to it, and so to deceive the public.

946. Mr. *Sheridan.*] Do you believe the persons who make such port wine with that view, sell it at 12 *s.* a dozen?—It may be sold perhaps at 18 *s.* a dozen. I cannot say exactly what is the price. These imitation port wines may be bought at any grocer's shop who sells British wines.

947. *Chairman.*] You are clearly of opinion that, at whatever price the mixture is sold, if it is sold under a name which it has no right whatever to bear, it is a fraud upon the public?—Certainly.

948. Mr. *Moffatt.*] Will you explain why it is not port wine; a man chooses to make it, and to call it port wine?—I do not think I can explain that.

949. If A. manufactures any article which has not been previously known

as

as an article of manufacture, and chooses to call it by a particular name, is it a fraud for him to call it by that name?—I think it is. I can state several instances in which what I consider frauds of the same kind are practised. The common washing soda is sold at exorbitant prices, under various names, by persons who profess that they have a superior preparation for washing to anything which has been known before. These preparations, generally speaking, consist only of soda.

950. If sold at a higher price, that may be a fraud; but, does not the fraud consist, not in the name, but in the price which is asked?—I think it is a fraud to pass an article off by calling it by the name of another article.

951. *Chairman.*] Take the case of opium; opium is said to be imported into this country which contains not an atom of the principle of morphia; supposing that were sold at one-tenth of the usual price of opium, would you consider because it was sold at that low price, that a person was justified in selling it as opium?—Certainly not; if he represented it to be opium it would be a fraud, unquestionably.

652. However low the price might be?—Yes.

953. It is imported as opium, and sells for opium, but really contains no opium at all; however cheaply that might be sold, you think the sale of it would be a fraud upon the public?—Yes; it is utterly valueless, and therefore is dear at any price.

954. Viscount *Ebrington.*] In short, the object of language is to describe ideas by words?—Certainly.

955. Mr. *Cowper.*] You regard it as a fraud to attach a false name to an article?—I do.

Mr. *James Baiss,* called in; and Examined.

956. *Chairman.*] YOU are a wholesale druggist, are you not?—Yes; not a drug grinder, but a drug merchant and importer of drugs, supplying druggists and the medical profession in this country and in foreign countries with drugs and chemicals.

957. It has been stated to the Committee by previous witnesses, that wholesale druggists are in the habit of sending, say, 100 lbs. of drugs to be ground, and requiring that the loss sustained shall be made up by the admixture of some other powder; thus adulterating the drug when powdered; can you confirm that statement or otherwise?—I deny it *in toto* as far as our own firm is concerned, and I have made inquiries within the last week, and find that the evidence which I complain of, as given at the end of last Session, is not correct. It refers to an old custom many years ago. I have especially inquired of some of the most respectable drug grinders, and they assure me that it is not the custom at present, but one which has been exploded. Here and there it is possible there may be some parties still continuing the old practice; but as a custom, I am assured by them that it is not the case. As far as we ourselves are concerned, I have written to the gentleman who gave that evidence last Session, offering to show our books, and everything connected with our establishment; I can also prove upon oath, if necessary, that it is not the case.

958. That may be perfectly true as respects your own establishment, but what is your opinion with regard to others?—I have made special inquiries, with a view to be enabled to state what is not only our practice, but the custom of the trade generally, among respectable houses; it is an old custom which obtained many years ago, but I am happy to say that that kind of fraud does not exist now, as I am assured by parties who grind for respectable houses in the trade.

959. Viscount *Ebrington.*] You believe it is a practice which has been long disused?—They assure me that it is so; I have put the question to others, "What is the custom of the trade; and is that which has been stated correct?" They say, "Certainly not; it has been exploded many years."

960. Can you tell at all what the feelings of the trade would be with regard to any authorised inspection for the protection of the public against others in the same business having recourse to the practices which you repudiate?—My impression with regard to inspection is, that it would be of great service, not only to us as wholesale druggists, but to the public generally, if an inspector were appointed to inspect drugs in bond, such as opium, scammony, jalap, and other drugs which are imported, and if he were to put his seal upon those

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packages which were good, that would render them current in the market. Those which were not found to be good should certainly be rejected.

961. *Chairman.*] Are you of opinion that a large quantity of impure drugs is imported into the country?—Yes, which ought not to come into consumption; and if parties on the Continent from whom those drugs are imported knew that there were inspectors here, it would at once check them in sending impure drugs into this country; the fact that they would be returned upon their hands would be of itself a sufficient inducement to them to send a genuine article.

962. Mr. *Sheridan.*] You are in the habit of sending drugs to be ground, are not you?—Yes.

963. What are your directions to the grinder?—That the exact produce of every article sent shall be sent home to us, leaving us to bear the whole of he loss. If the Committee will allow me, I will state, that I copied from our mill-book this morning a few instances by which I can show the loss upon the grinding at once. On 128 lbs. of rhubarb root ground, the loss is 6 lbs.; the whole of that loss we bear; we do not have it made up. The next article is opium; the loss is 12 lbs. in grinding 100 lbs., the whole of which we bear. On scammony, 100 lbs., loss 9 lbs.; on aloes, 90 lbs., loss 6 lbs.; on a cask of cream of tartar, 10 cwt. 2 qrs. and 1 lb. gross, the produce was 9 cwt. 3 qrs. and 12 lbs., the loss being 13 lbs., the tare of cask 2 qrs. and 22 lbs.

964. Mr. *Gregson.*] Are those losses by impurities?—By evaporation and grinding.

965. Not by adulteration?—No; I have given the exact produce, accounting for the loss by grinding; nothing is mixed with the genuine article brought home.

966. Mr. *Sheridan.*] What security have you against being imposed on?—We have the refuse sent home. In grinding 100 lbs. of opium, for example, there is a loss by drying; and that portion which will not go under the stones of the mill comes home to us; so that we get the actual produce of the genuine article returned.

967. Would you always calculate in that way, that whenever you sent 100 lbs. of opium, there would be 12 lbs. loss?—Some opium would be drier than others, and there would be a less loss; 143 lbs. of Socotrine aloes produced 122 lbs., leaving a loss of 21 lbs.; 100 lbs. of ipecacuanha lost 6 lbs.

968. Mr. *Gregson.*] Is that refuse so sent back to you applicable to any use?—That which will not go under the stones at one grinding would be sent with the root the next time to be ground; it is the rough part of the root which is left, at the end of the sifting process.

969. Viscount *Ebrington.*] Do you think the duty of inspectors should be limited to the inspection of drugs in bond, or do you think it would be desirable that they should extend their inquiries to goods after they come into the hands of dealers in this country?—I think it would be to the benefit of the public if they inspected goods generally; but in order to ensure our getting our drugs genuine from abroad, they should be inspected in bond.

970. You would begin at the beginning?—Yes.

971. And follow up the goods into the hands of the retail dealers, through the successive dealers?—If the cases which the previous witness has stated are correct, it certainly shows that there is great necessity for it; but such experience is foreign to my own. I should imagine, in the case of the gentleman who is dead, and whose book has been produced, his practice has died with him.

972. Mr. *Gregson.*] Could you have an inspection in bond which would satisfy you as to the quality of the articles, without an analysis of them?—Yes; all the packages could be opened in bond, and they should be examined minutely, till the parties on the Continent become accustomed to send genuine articles.

973. Viscount *Ebrington.*] You think they should be liable to inspection?—Yes; the fact of there being inspectors, I think, would prevent bad articles being sent.

974. You do not believe that the trade in general would have any objection to an authorised inspector examining drugs?—I should say all honest persons would not.

975. It would be an advantage to the honest and a loss only to the dishonest?—All honest persons would be willing to expose the whole of their drugs, in my opinion, if required.

976. And

976. And as you believe the majority of the dealers are honest, you think the measure would be acceptable to the trade?—I should hope it would.

977. Mr. *Moffatt.*] It has been stated that a very large proportion of the adulteration practised in drugs is due to the drug grinders; that statement was made by a gentleman of considerable pretensions. I should like to ask you whether that assertion is accurate within your practical knowledge?—I have made inquiries of some of the most respectable drug grinders in London, who grind for the majority of the wholesale druggists, and they assure me that such is not the case. One house stated that they had in no instance since they had been in business, for many years, made up the loss of four per cent. which was alluded to.

978. Mr. *Sheridan.*] In all cases the wholesale druggist suffers the loss which you have mentioned?—In so large a body I am not prepared to say that all do, but those who are actuated by proper principles of honour and honesty would do so. I am assured by the drug grinders who grind for many houses that the old system has been exploded.

979. Mr. *Moffatt.*] It was further stated by this witness, "A person having a drug which he wishes ground forwards a given weight of it to the drug grinder. The drug is generally returned to him of the same weight, or nearly so, and sometimes it is even ordered to be returned weighing so much more." Has any such instance as that come under your experience; have you ever heard of such a thing in the drug trade?—I may name an instance. I heard within the last few days from one of those drug grinders, to whom I have referred; he said, in the course of the last 30 years, he has had something like four or six applications to grind in the way there stated, but he has refused to do so, feeling that it would be dishonest.

980. What experience have you had in the drug trade?—Between 30 and 40 years.

981. And you have never heard of such instructions as those being carried into effect?—Certainly not.

982. You do not believe that it is the practice?—I believe it may have been formerly the practice; but I am assured that it has been exploded for many years; indeed, not only is it the duty of wholesale houses, but it is their interest to supply druggists with the finest articles they can.

983. The general practice of wholesale druggists is to send their drugs to the drug grinder, and receive exactly the same weight in return, after making the ordinary allowance for evaporation and wastage in the process of grinding?—I am assured by those drug grinders to whom I refer, that it is not the practice to make up the loss.

984. As far as your own experience goes in your own trade, and also that of respectable wholesale druggists in London, the practice of calling upon the drug grinder to make up the loss does not exist?—In no single instance does it exist in our own establishment, and I have no doubt that many others are as honest as ourselves; there is of course great room for adulteration if persons choose to be dishonest.

985. Viscount *Ebrington.*] You do not yourself utterly disbelieve the existence of such a practice at the present time, do you; you only believe, I understand, that it is discontinued by the majority of the trade; the more respectable houses in the trade?—Just so. I believe it may be done by persons who have no care for their character; but that it is not the practice of the trade, I am prepared distinctly to state.

986. Mr. *Gregson.*] Have you seen many drug grinders upon this point?—I have spoken to some of the principal grinders in the trade, who grind, I may say, for all the houses of importance.

987. How many drug grinders are there in London?—There may be six or eight, perhaps; but there are two or three houses which have the principal portion of the trade. I have spoken to those who grind for the greatest number of druggists in London.

988. Mr. *Sheridan.*] It is pretty well ascertained now what the amount of loss is in grinding any particular drug, is it not?—Yes; some may imagine that four per cent. is the average loss, but I have proved that in some instances we lose six, nine, and even 12 per cent.; whatever the loss is, we submit to the whole of it; and I have no doubt that is the practice with many others besides ourselves.

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989. *Chairman.*] I gather from your evidence that you are of opinion that adulteration is so far practised, and impure drugs are so far imported, that it would not be unadvisable for the Government to interfere by means of inspection with regard to druggists' shops, and in regard to importation by an examination of the drugs in bond?—I think so. I believe the College of Physicians now exercise the power of examining druggists' shops.

990. That applies only within the city of London, does it?—I am not aware whether it is confined to the city of London.

991. Do you know to what extent that is practised?—I have understood that they can call at the shop of a druggist once in three or six months, but I am not quite certain.

992. You do not probably know anything practically of the effect of the examination?—I do not. I have written to the physician who gave evidence here on the last occasion, requesting that he would visit us at our establishment, in order that he may see that the assertions he made with respect to the custom of the trade generally are incorrect, so far as we are concerned.

993. Mr. *Moffatt.*] Evidence has been given before this Committee, to the effect that wholesale druggists generally keep a book which contains various recipes for the manufacture and composition of spurious articles, particularly of what are called compound powders; do you believe that to be the case?—I certainly do not believe they make such articles to sell as genuine.

994. *Chairman* (to Mr. *Bastick*).] With reference to the use of the book, of which you have given evidence, I understood you, in the first instance, to say that that book was one which belonged to a person who is now dead?—It did.

995. Did you intend the Committee to understand that a similar book to the one which you produced is in use by the trade generally?—A great many wholesale druggists have such a book; I do not say that every one has, but I believe that many of them make those compounds of which I speak.

996. Mr. *Moffatt* (to Mr. *Baiss*).] Are you aware of the existence of such a book among wholesale druggists?—The book we take is the Pharmacopœia, to which we strictly adhere in making our preparations; of which our laboratory book will be an evidence.

997. It has been described to this Committee that there is an edition of the Pharmacopœia which contains those recipes by which you can compound various spurious drugs?—I must premise by saying that we do not compound those things; we sell the drugs perfectly genuine, and do not compound the articles mentioned.

998. If gentian is to be sold, you do not sell a gentian which is a compound of that and four or five other ingredients?—No. We sent 120 lbs. of the root to the mill, and it produced 107 lbs. of powder, the loss being 13 lbs. This only is what we sell as gentian powder.

999. You are not in the habit of selling an article under the name of gentian mixed with other articles to make up that which you supply to your customers as gentian?—We sell the article precisely as it is sent from the mill.

1000. And your belief is that that is the practice of other respectable druggists?—I have no doubt it is; I cannot for a moment imagine that a respectable house would sell a compound article as the true powder.

1001. Mr. *Sheridan.*] Suppose they are asked for an article and the word "compositus" is used?—If it is kept as a compound powder, they might sell such a thing.

1002. Have you in your own establishment two kinds of gentian, one the compound article, and the other the pure article?—If a person in the country wanted compound powder of gentian, we could procure it; but it is so seldom called for, that few houses would keep it, in quantity.

1003. Where would you procure it?—From the grinders, I suppose.

1004. Not from the wholesale druggist?—The wholesale druggist would not make it, I should imagine.

1005. There is such an article sold in the trade as "gentian compositus," is there?—If so, it must be in very rare instances, as I before stated. We imported five tons of gentian last year, and we have no demand for an article of that kind, in quantity.

1006. Mr. *Moffatt.*] You are not aware of that article being one of the current articles in the trade?—It would only be in very rare instances. There is an article called "compound liquorice powder," which persons in the country

country require for veterinary purposes, but they would not use that, I apprehend, where the true liquorice powder was required. I believe it is required for rolling up their physic balls.

1007. Mr. *Gregson.*] Do you sometimes supply that?—If required we can get it; we do not make it.

1008. *Chairman.*] Is it or is it not the practice of retail druggists to ask for powders under the name of "compound powders"?—It would be only for such purposes as I have named. Compound liquorice powder, and compound aniseed powder, &c., are asked for, but no respectable house would sell those compound articles as genuine powders.

1009. The question is whether there are members of the trade, to any considerable extent, who may be supposed to be purchasers of the more compounded and fraudulent articles?—They would not be sold as the genuine ground article; they would only be sold for common purposes, such as I have stated, being inquired for in agricultural districts for cattle.

1010. Mr. *Moffatt.*] Are you aware that they are generally sold as a fictitious thing to represent the real article?—No. Compound powders are sold to country druggists for cattle medicines. They may be used as a vehicle to convey small quantities of strong medicines for cattle, as water is used by a surgeon in mixtures for patients.

1011. *Chairman.*] What would gentian powder be used for unless to be sold in its adulterated condition as gentian powder?—I cannot suggest any use for it but for cattle, and I should imagine there could be no demand for the article, scarcely.

1012. Viscount *Goderich.*] Do you believe that liquorice powder is the only article of that description which is sold?—I think the previous witness spoke of compound aniseed powder; that would be another of the same character.

1013. Do you, of your own knowledge, know that any articles of this kind are sold in the trade?—As I before stated, occasionally country druggists write for compound liquorice powder, or the compound aniseed powder which has been mentioned; but I do not apprehend that they would require these powders to sell as true powders; if they do, it is fraudulent.

1014. Do you believe that they ever ask for those powders at all?—I believe they do occasionally write for those common articles from the country for the purpose to which I allude, that of cattle medicines. In the case of the first article on my list, namely, rhubarb, nobody would write for compound rhubarb powder instead of genuine; there is no such thing recognised.

1015. *Chairman.*] Did you ever hear of such a thing as compound gentian?—Yes; but I should imagine that the sale is so extremely small, that it would be little in comparison with the true powder.

1016. Viscount *Goderich.*] Would compounds of gentian be used as horse medicines?—I do not know what other purpose they could be used for except for cattle, and even for that it should not be used further than as before stated, a vehicle for stronger medicines.

1017. Mr. *Sheridan.*] Have you ever been asked for it?—I am not prepared to say we have not, among the many thousands of orders we have received from the country.

1018. You do not keep it?—No; we do not make any of those things, I assure you.

1019. Mr. *Gregson.*] Is there a class of druggists called brewers' druggists?—I do not know such, but I have heard the term.

1020. *Chairman.*] The effect of your evidence apparently is to show that very little adulteration goes on among wholesale druggists?—Quite so, among those who are respectable, and who desire to act with integrity. It is perfectly competent for any man to be dishonest, especially in the drug trade.

1021. Do you think the trade generally to be very honest, or do you believe there are persons in it who practise adulteration?—I should say they are honest, generally speaking. Even upon the low ground of policy, it would be opposed to their interests to act dishonestly; and I do not imagine that among respectable houses in the city, there are many, if any, who would, for the sake of extra profit, act so dishonestly.

1022. If you were asked whether adulterated drugs were sold by wholesale

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druggists, what would be your answer?—I should say that they are not; I cannot say that among such a large body of men there may not be instances to the contrary, but I do not believe it can be said to be the general practice of the trade.

1023. Do you believe that adulterated drugs are sold in any considerable quantity?—I have no doubt that among the large quantities of drugs which are sold, there are some which are not so correctly prepared as they ought to be; every article should be made in complete accordance with the Pharmacopœia. That is the book which we ourselves use, and I have no doubt many others are equally honest with ourselves.

1024. If the practice of the trade were such as you describe, it would appear that the appointment of an inspector to examine those druggists' shops would not be requisite?—It has been stated by a previous witness, that adulteration goes on all through the trade: after we send articles which we pledge ourselves to be genuine to a retail man, if he chooses to adulterate them he can do so; but I should say not one in a thousand would do so; of course, here and there, there may be a man who will.

1025. Have you conducted any analysis yourself?—I have not occasion to do so, having a person in our establishment to test articles before they are sold.

1026. Mr. *Sheridan.*] Did you hear the evidence of the previous witness?—Yes, and I was most astonished to hear it. One of the articles that gentleman alluded to was white precipitate; the adulteration named by him is perfectly easy of detection: nothing needs to be done but to heat an iron and place a portion of this article upon it; if genuine, it is all dissipated by the heat; if adulterated, the portion which is chalk remains.

1027. Viscount *Ebrington.*] Do you think the existence of facility for the detection of a fraud, if any one will take the trouble to employ it, is a sufficient protection against that fraud?—I should think so, generally speaking. These things are easily discovered by testing, and in the case of the article just named, by the very commonest test, that of applying a heated iron.

1028. There are various simple tests for distinguishing coffee adulterated with chicory from pure coffee; but do you believe the existence of those simple tests, and the facility of applying them, is a practical protection to the public against being largely imposed on by adulterated coffee?—I cannot say.

1029. Mr. *Moffatt.*] Are you acquainted with the coffee trade?—I am not. In every trade, if persons choose to act dishonestly, there is plenty of scope for them.

1030. Viscount *Ebrington.*] In the absence of legislative measures, there is plenty of scope for their doing so with impunity, and even with success?—Yes.

1031. Mr. *Sheridan.*] Did you hear the evidence of Mr. Lindsey Blyth?—Yes.

1032. He gave testimony to the effect, that the drugs which were sent to the hospital were very much adulterated; but that after an examination was known to take place, the articles came to the hospital in a much purer state?—That would show that the fact of their being examined served as a check; but that check ought not to have been required.

1033. It proves the existence of the adulteration?—It does.

1034. Mr. *Moffatt.*] Did that witness say whether those drugs were sent from wholesale or retail houses?—I am not aware.

1035. Viscount *Goderich.*] Does your evidence refer only to wholesale druggists?—Only to wholesale druggists.

1036. When you speak of the honesty of druggists in general, and of their abstinence from selling adulterated articles, do you refer to wholesale druggists, or wholesale and retail both?—I allude to them generally as a body.

1037. *Chairman.*] I understand that you yourself have not conducted any analysis with a view to detect whether these articles are adulterated or not?—No. I can generally tell, from my long experience in the trade, from the appearance of the articles; there are, of course, some articles which require to be tested, and which we do have tested by a person in our own employ.

1038. What articles of manufacture do you purchase?—There are some we do not make ourselves, and which of necessity we are obliged to buy, but we make a point of testing them.

1039. Do you find they are generally correct?—Yes; we have a person on our establishment to test the articles we buy as they come in, and if not approved they are returned. Mr. *J. Baiss.* 5 March 1856.

1040. As a rule, you would scarcely say you have yourself had the opportunity of analysing the compounds of other wholesale druggists, and still less of retail dealers?—Personally, I have not.

Veneris, 7° die Martii, 1856.

MEMBERS PRESENT.

Mr. Scholefield.	Viscount Goderich.
Mr. Gregson.	Mr. Kinnaird.
Mr. Moffatt.	Mr. Peacocke.
Mr. Sheridan.	Mr. Charles Villiers.
Mr. Wise.	

WILLIAM SCHOLEFIELD, Esq., IN THE CHAIR.

Mr. *William Emerson*, called in; and Examined.

1041. *Chairman.*] YOU are the Manager of what is called The People's Flour Mill, I believe, at Leeds?—Yes. Mr. *W. Emerson.* 7 March 1856.

1042. How long has that establishment been in existence?—It was established in July 1847.

1043. Will you state to the Committee what was the reason for its establishment?—The reason why the society was established was in consequence of the dearness and impurity of the food.

1044. How did you arrive at the fact that the flour was impure?—By the general bad bread. The Yorkshire people buy their own flour, and make their own bread. They have their own ovens. It was generally concluded by the Yorkshire people, and the people of Leeds, that the bread was dear in price as well as bad in quality. Between the price of corn and the price of flour there was a great difference. The calculation of cost is a halfpenny per shilling per quarter, and the price generally exceeded that.

1045. Who were the parties making that complaint; do you recollect any parties in particular, or was it rather a general complaint of the bad quality of the bread?—Of course we had no practical proof, but the general impression was that all kinds of materials were mixed with the flour at that time. I remember one circumstance of a person that had been mixing hall plaster, or Paris white, with the flour, who was brought before the magistrates, and convicted of the offence.

1046. The impression was that the bread was not good, and that the bread was dear, and you established this mill for the purpose of making purer and cheaper bread for yourselves?—Yes.

1047. How many members are there in the society?—Three thousand one hundred.

1048. Are they of the working classes generally?—Principally. We have all sorts of people connected with it at present; bankers, merchants, and magistrates; men of every standing, but principally they are of the working classes.

1049. Can you state the amount of business which you are doing at present?—From 70,000 *l.* to 80,000 *l.* per annum.

1050. What quantity does that represent, as far as you can judge, in corn or flour?—We consume about 400 quarters of corn per week.

1051. Do you ever adulterate your flour?—Never. There is no admixture of anything whatever. It is what we designate pure flour, is made from pure wheat; and our oatmeal is made from pure shellings from oats, and so on in other articles.

1052. Do you put any potato starch into your flour?—We never put anything of any description; it is all pure, genuine flour, and has been from the commencement.

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1053. Mr. *Sheridan.*] Is the bread made from your flour as white as the bread which is generally sold by bakers?—It is not so white.

1054. *Chairman.*] What has been the effect upon your sales of selling bread which was held by the public to be pure bread?—It has caused a great amount of dissatisfaction amongst the consumers; our members complained that we could not produce it at the price that other people did.

1055. Then one of the results which you had in view has not been accomplished, as I understand. You thought you could produce bread at a cheaper price, but you find it rather dearer than that which is paid to ordinary sellers?—Notwithstanding that, taking the present price of flour and corn, we have sold at 2*d.* per stone less than it was sold at before the establishment of our mill.

1056. Are you now below the dealers in price?—No, about the same price.

1057. Viscount *Goderich.*] But of course all who sell adulterated flour sell at a lower price?—The lower qualities are sold at a much lower price; it varies from 4*d.* to 6*d.* a stone.

1058. *Chairman.*] That is inferior flour, is it not?—Yes; we make but one kind; we make it from the best of wheat.

1059. What do you do with your seconds?—We do not make any seconds. You must understand that the flour is made all at one time; if you manufacture two kinds of flour it is made at two different processes. We take about four pounds or five pounds of bread meal out of the flour, which is generally termed by millers "the greys," for the purpose of making it better.

1060. Are there any other modes of mixing flour, or any mixings with flour, which may be considered as adulterations?—There are many ways which are not considered to come within the pale of any penalty.

1061. Should you consider them adulterations yourself?—Yes; we are not allowed to do anything of the sort; in fact, we have no interest in doing it, because we consume it ourselves.

1062. What are those adulterations to which you refer?—Barley, for instance; barley is about 40*s.* a quarter, and wheat perhaps 70*s.*; one quarter of barley to three quarters of wheat will make a good flour; that lessens the price considerably, perhaps 3*d.* or 4*d.* per stone.

1063. Is that a common adulteration?—Very common. There is also Egyptian wheat, which is a very inferior quality of wheat, having been washed and dried; it does not appear to have much nutrition in it; it tastes quite mildewy; we designate it chewing sticks. This Egyptian wheat is about 20*s.* per quarter less than our corn, and it tends to reduce the price of flour very much; still it is deceptive, it looks very beautiful to the eye, being quite white.

1064. Have you reason to suppose that the flour which is so mixed is sold at a lower rate than that which is pure?—Most undoubtedly.

1065. At a very much lower rate?—Yes; and that is one of the greatest obstacles with which we have to contend.

1066. Mr. *Sheridan.*] After the flour is sifted and prepared for making bread, what becomes of what is called, in some parts of the country, sharps, which is the inferior flour?—The sharps are used for pigs; the proportions run thus: a quarter of wheat will produce about 25¼ stones of flour, about 4 lbs. to 5 lbs. of bread meal, 2½ stones of fine sharps, and about five stones of what we call bran or coarse sharps.

1067. Mr. *Wise.*] Are the sharps sold in the town?—Yes, for pigs. I intended to have brought some samples to show that the fine sharps are mixed with oatmeal, which tends to lessen the price of oatmeal. You cannot detect it with your eyes; you cannot discover but what it is oatmeal. One quarter of fine sharps mixed with oatmeal will lessen the price 2*d.* or 3*d.* per stone.

1068. How many families does your society supply with pure flour?—We compute about 4,000.

1069. In Leeds?—Yes, and the neighbourhood.

1070. Viscount *Goderich.*] How many individuals does that represent?—About 20,000.

1071. *Chairman.*] You have already stated that the society does not consist entirely of the working classes, and that you have some other persons associated with you?—We have some of the middle class associated with us.

1072. Under what law is your society established?—We are registered under what is termed Slaney's Act, the Provident Societies Act. We were formerly registered under the Friendly Societies Act, but we could not work under that Act.

Act. That Act provided that we should sell to members only, and inasmuch as our members were principally of the working classes, we had no means of getting rid of our offal, therefore we were compelled to enrol under the law for industrial societies.

1073. Are there any other societies of a like nature in Yorkshire?—There are many others; one at Hull, one at Barnsley, one at Bradford, Thirsk, Birstal, one at Keighley, one at Halifax, a very extensive one at Rochdale, and many others.

1074. Mr. *Sheridan.*] When were those societies established?—I believe we were all established nearly together, except some small societies which have been established since, and the one at Hull, which has been in existence many years.

1075. Mr. *Villiers.*] What is the date of the Act of Parliament under which you act?—1852.

1076. Have you only been established since 1852?—We were established in 1847.

1077. Then you were under the Friendly Societies Act?—Yes.

1078. You do not limit the number of your customers to your shareholders?—Not at all; it is quite open.

1079. Then this is a trading company like any other?—Yes; it is a trading company so far as the profits and losses are concerned.

1080. In point of fact, you get as much business as you can?—Yes.

1081. Do you render a regular profit-and-loss account to the shareholders?—Yes.

1082. Is this society answering?—Yes.

1083. What is the security that your flour is pure; what checks have you that what you profess to sell is perfectly pure?—It is impossible for it to be adulterated.

1084. What are the checks which you provide to insure the purity of your flour?—We buy the best of wheats; in the next place, we have a Board of Directors to see that there is no admixture. I represent that Board of Directors to see that there is no admixture in the mill, or in any of the shops where it is sold; it is sold through our own agents; we do not allow any to be sold by the public, nor do we allow our own agents to sell any flour belonging to the public, consequently it is confined entirely amongst ourselves; we not only produce the flour, but we distribute and consume it.

1085. That is like everybody else. Of course all millers have their own agents to distribute; what particular checks have you to secure your agents being honest?—I do not see any moral possibility of their being dishonest, inasmuch as they have no material to mix with our flour; they could not mix any other material with it, without being found out.

1086. What is the security for the honesty of the Board of Directors itself?—The Board have no interest in mixing; the Board make their own flour for their own and their families' use, and they would never mix deleterious substances with the flour, for their own stomachs' sake.

1087. It is a trading company, deriving profit from its business. We only want to know in what way this company is distinguished from other companies who have an interest in selling good articles, but who still sell inferior articles. You set up as being superior to your neighbours; what security have you that you are better than other people. I do not in the least doubt that the company is realising all it professes, but I want to know what security you have that you are offering to the public pure flour?—I do not see any possibility of its being otherwise. The Board of Directors have no interest in mixing; they will have it pure for their own sake. The whole of the agents and servants are under the control of the Board of Directors, and any one attempting such a thing would be dismissed from his situation in one moment.

1088. If you were to do that which you almost charge other tradesmen with doing, your profits would be larger, would not they?—Most undoubtedly. We could manufacture flour at 4 *d.* per stone less; we never mix except for experiment. I made a mixture to bring before our general meeting at the last half year, of one-fourth barley, to show what could be done; that bread was made at 4 ¾ *d.* per stone less than the price I have stated. It was acknowledged by the members at the meeting, who did not know what it was made of, to be very good bread; they said they did not wish to have any better.

1089. Do you invite people to examine your flour?—The directors have appointed two inspectors, who inspect weekly.

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1090. Still the inspectors are persons doing your business?—They have no interest except doing justice to the whole of the members.

1091. Mr. *Wise.*] As I understand your evidence, your company was established as an act of self-protection?—Yes.

1092. Therefore you are especially interested in taking care that you have a pure and good article?—We have a pure article.

1093. Has not this society originated from the great amount of adulteration which was discovered at Leeds?—That was the origination of it.

1094. Have not you had a public meeting upon this subject, and appointed two public prosecutors?—The appointment of agents was not at a public meeting.

1095. Were not two persons appointed to look after all articles of food, particularly flour?—Yes.

1096. Mr. *Villiers.*] Do you undersell the regular trade?—No.

1097. Mr. *Wise.*] Have any proceedings been taken in Leeds under the 6th & 7th of William the 4th, which is the Act of Parliament for punishing millers for having adulterated flour on their premises?—I believe there has been only one case in Leeds; I have not the date of it. A person was convicted of putting hall plaster, or plaster of Paris, into flour.

1098. What was done in that case?—I am sure I do not know whether he was imprisoned for one or two years.

1099. Was not he fined?—He was fined, but he had nothing to pay it with.

1100. Mr. *Peacocke.*] I presume the inspectors of whom you have spoken are shareholders?—Yes.

1101. And they participate in the profits like the other shareholders?—Yes.

1102. You say that the adulteration of flour has been going on at Leeds for a long time, but you have only known of one prosecution?—There has only been one in Leeds, but we have had a great many in the immediate neighbourhood.

1103. Was there any difficulty in procuring convictions?—Not at all. I am in possession of some facts. There have been two convictions at Keighley; that is in our immediate neighbourhood; and there have been two at Wakefield, and some in Pontefract; those are all in the immediate neighbourhood of Leeds. I believe that a sample has been sent up to London for Professor Taylor to analyse, respecting the Leeds millers.

1104. Did you say that you mixed barley with your corn?—No; I merely did so as an experiment.

1105. You did not sell any of that flour?—Never a pound.

1106. Viscount *Goderich.*] You have stated to the Committee that your own members were about two-thirds or three-quarters of your customers?—Yes.

1107. Consequently if you were to adulterate your flour in order to increase the profits of those members, you would be directly cheating them in one way for the purpose of putting money into their pockets in another?—Most undoubtedly.

1108. Mr. *Sheridan.*] What are the duties of the directors of your society? The duties of the directors are, as a deliberative body, to order and direct the working of the mill.

1109. Did not you say that the directors undertook to ascertain whether the articles were pure?—I said that the directors deputed two of their own body to visit the mill weekly to see if everything was right.

1110. Do the directors receive any salary?—Not a farthing.

1111. Viscount *Goderich.*] They only receive their own proportion of the profits?—Not any more than their own proportion of the profits. No member can hold more than one share; a share was a guinea originally.

1112. Mr. *Sheridan.*] How much of the directors' time is occupied?—They meet once a month, sometimes oftener. The Board of Directors is divided into three committees, the Finance Committee, the Mill Committee, and the Stock Committee.

1113. Mr. *Villiers.*] I think your society is not exclusively composed of the working classes?—Not altogether.

1114. Can you tell the proportion of any other class in the society?—I cannot. I should say we have men of every trade in Leeds connected with the mill.

1115. Can no one hold more than one share?—No, except by accumulation of profits.

1116. And that he purchased for a guinea. What does he get for his money?—Five

—Five per cent. interest and a bonus according to the profits made. All our agents are our own, and if I go to fetch a stone of flour the agent gives me a tin ticket, representing one stone. At the end of the half year the whole of those tin tickets are brought in and entered in a column; at the end of the half year a balance-sheet is made out. There are 20 stones to the bag, and every person who has had one bag gets 1 *s.*, besides the 5 per cent., if the business makes it. Many consume five bags, and he gets 5 *s.* for the five bags.

1117. What proportion of persons are customers who are not shareholders?—We think about one-third is consumed by the public in proportion to what is consumed by the shareholders, as near as can be ascertained by our returns.

1118. Is that business with the public an increasing business?—We have not been able to increase the business the last three years, because we were doing as much as we could with the stones we had. We had got to full employment three years ago, and we are only now putting down more stones.

1119. Mr. *Sheridan.*] How many pairs of stones have you now at work?—We run 10 pair of French stones night and day.

1120. Mr. *Peacocke.*] Do you find your flour preferred by the public?—We think that the sales, amounting to one-third, is a satisfactory proof that it is liked by the public.

1121. Therefore you mean to say that your business is only limited by the amount of capital?—By the want of productive power.

1122. Viscount *Goderich.*] Can you state to the Committee the amount of business you have done since you commenced operations?—Yes; I can also give the Committee one of our last balance-sheets (*handing in the same*). The amount of business done since we commenced has been 331,668 *l.*

1123. What was the amount of capital subscribed with which you started?—The whole amount of capital which has been paid by the society amounts to 4,398 *l.* altogether.

1124. How much have you paid to members in the shape of bonuses?—We have returned to the members 5,289 *l.*

1125. Mr. *Villiers.*] The society has been profitable, as I understand, hitherto?—Yes; the shareholders have got their money back and 891 *l.* over, whereby it is evident that the society sells at a profit.

1126. If there was a loss upon whom would it fall?—Upon the whole of the shareholders.

1127. Is it any part of the business of this society to inspect the bread or flour of other tradesmen?—I believe that the members inspect other people's flour by purchasing it every week, perhaps every day. They frequently bring us samples of other people's bread, to show at what price it can be bought.

1128. Has any analysis of the bread been made to discover the particular ingredients with which it is mixed?—There is an analysis given here in a letter from Mr. Dresser to the editor of the "Leeds Mercury."

1129. Was this promoted by the society?—No.

1130. Is it any part of your business to try to check fraud, or check the adulteration amongst bakers or millers?—We have no system of checking it, except by calling public meetings in all the various localities, and explaining what the flour can be manufactured at.

1131. It is not a part of the business of your society to detect adulteration?—No.

1132. You do not desire your inspectors to purchase flour from other quarters, for the purpose of detecting adulteration?—No. Perhaps I may be permitted to read a short letter which was addressed to the editor of the "Leeds Mercury." "October 13th, 1855. Alum in bread. To the editor of the 'Leeds Mercury.' Gentlemen,—I beg to hand you the following analysis of bread purchased from five of the principal bakers in the town. No. 1, 4 lbs. of alum for 20 stone of flour; No. 2, 3 ½ lbs. of alum for 20 stone of flour; No. 3, 3 lbs. of alum for 20 stone of flour; No. 4, 2 ¼ lbs. of alum for 20 stone of flour; No. 5, 2 lbs. of alum for 20 stone of flour. The alum is introduced in order to give inferior qualities of flour the appearance of superior qualities, and when taken by the consumer in these large quantities must have a very injurious effect on the system. Yours respectfully, *C. L. Dresser.*"

1133. Is Mr. Dresser a chemist, residing in Leeds?—I believe, by business, he is an engineer; he is a noted man in Leeds; he appears to be a professional chemist.

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1134. Under the Provident Societies Act is the liability of the shareholders limited?—No.

1135. Therefore the shareholders might be considered partners according to law?—Yes.

1136. So that if a wealthy man had taken a share he might be liable for the whole loss?—Yes.

1137. Do the shareholders know that?—Yes.

1138. *Chairman.*] Can you suggest any means of preventing adulteration?—I think that the appointment of an inspector of corn, as well as flour, would prevent it in a great measure.

1139. Mr. *Villiers.*] Do you mean a public officer?—A public inspector.

1140. *Chairman.*] In what way should he perform his duties?—He would have to watch all that came to the market, visit the mills, and see what they were mixing with.

1141. Mr. *Villiers.*] He would have enough to do, would not he?—He might do it very easily if he was an active man.

1142. For the town of Leeds you must have several inspectors?—One would be sufficient, and he would have plenty of time to spare.

1143. It would be known that he was available for the purpose, and perhaps that would prevent a good deal of adulteration?—I believe the respectable millers would not care how soon there was an inspector. They are compelled to mix to make it as cheap as other people; and it is not their wish or desire to do so.

1144. You do not know that your company has checked any adulteration, except in the manufactory with which you are concerned?—Only by exposing others.

1145. You do not think there is at present any sufficient check to adulteration?—No.

1146. Mr. *Peacocke.*] At whose instigation have the prosecutions to which you have referred been undertaken?—I do not know at whose instigation; I believe it has been that of the public authorities.

1147. Not of private individuals?—No.

1148. I think you said that your capital was about 3,000 shares of 1 *l.* each?—Yes, originally.

1149. What are the shares worth now?—The shares are worth 2 *l.* 10 *s.* each.

1150. I see by your balance-sheet that the net profits are 800 *l.* a year, so that that is rather better than 26 per cent.?—It would be a very small per-centage, if you look at the amount of business done; it is a very large net per-centage on the amount of original capital. We were worth from 7,000 *l.* to 8,000 *l.* last year.

1151. Mr. *Wise.*] Had you any difficulties to contend with on the first establishment of this society?—Yes, many.

1152. Was there any considerable opposition on the part of any of the inhabitants?—The millers generally were opposed to it.

1153. Since it has been established has it got into favour?—Very much so; the millers themselves do not feel so much opposed to it as they did originally.

1154. Do you think the establishment of this mill has tended in any degree to improve the character of the bread?—It has improved the quality of the flour, and also lowered the price.

1155. Mr. *Sheridan.*] Has it interfered with the business of other men?—Not at all, except in competition.

1156. Mr. *Villiers.*] Like all other competitions, it has affected existing interests?—Of course every new beginning must affect the original stock.

1157. What led to the establishment of this mill; was it a general sense of the evil of adulteration, and the perception of its consequences, or was it a single individual that originated the society?—It was a simultaneous origination, as it were, both in the town and the country.

1158. The way in which flour was adulterated was felt to be a great evil?—Yes; there were many meetings upon the subject; the fact proves itself, by their having entered, within a few months of its origination, 2,600 members.

1159. It was not started by one individual; there was a general sense of the evil existing at the time it was started?—Yes.

1160. Mr. *Wise.*] Have the consumers of your bread experienced any improvement

improvement in their health, or have they discovered that the bread is more wholesome in any way?—We do not know that they are never affected by it or disorganised. At the time I was speaking of, respecting the hall plaster being put in, there was an old lady that had not a passage for eleven days.

1161. With reference to those frauds which are hurtful to health, do not the inhabitants of Leeds, as represented by you, think that there is good reason for organising some public means for preventing this sort of thing?—I believe so.

1162. You think that there ought to be some public officer who should inspect articles of food?—Yes.

1163. In your opinion, such an appointment would be extremely well received by the public?—Yes, it would. I have a report of a meeting which was held at Leeds, at which the mayor presided.

1164. Were there any resolutions passed at that meeting?—I do not see any except appointing parties to keep a strict look-out. It appears that the meeting was attended by the mayor, Mr. T. George, the Commissioner of Health, Mr. Eddison, Mr. Henry England, Mr. Armstead, Mr. Holmes, Mr. Ward, Mr. Ludolf, Mr. Lloyd Jones, and others. The mayor was called to the chair, and said that the subject of the adulteration of articles of food was one of great importance, and that it was highly desirable that some means should be adopted to put a stop to such adulterations.

1165. Is there not a general feeling in Bradford, Leeds, and many other towns of Yorkshire, that flour is largely adulterated, and that some steps ought to be taken to put a stop to such a system?—Yes. I can give a few cases in which millers have been convicted. On the 6th of March 1855, at Keighley, John Blakey was fined, for having adulterated his flour with alum, 20 *l.* and costs, or one month to hard labour; Rushworth Brothers, of Ingrove, near Keighley, were called to answer for a similar offence, and were convicted and fined the same amount. On the 3d of December 1855, Mr. East, of Nottingham (that is not in our immediate neighbourhood) pleaded guilty to having mixed his flour with terra alba; that is a kind of white earth; and he was convicted and the flour was condemned. On the 12th of February 1856, Abraham Ginn, of Wakefield, was fined 5 *l.* for having adulterated flour, and a seizure was made of 84 bags of flour, which was condemned as being unfit for food, having been mixed with alum.

1166. Did you ever hear of the Bradford case, in which some wheat was steeped in sulphuric acid and water, and then dried?—I have no report of it; I have heard it rumoured. On the 16th of February 1856, George Morritt, of Pontefract, was convicted, having pleaded guilty, and fined 15*l.* for having alum in his flour.

1167. How many years have the other mills been established?—I believe the Hull mill has been established half a century.

1168. Mr. *Peacocke.*] Under the present law convictions appear to have been obtained; why do you wish for any more stringent enactment upon the subject?—Because it appears to be anybody's business and nobody's. If there was a person appointed for the purpose of seeing that we had pure flour it would be his duty and business.

1169. Do not you think that the public is quite capable of taking care of itself?—I do not think they are; I think we have practical proof that they have not done so.

1170. Do not you think that the system of Government interference and protection is likely to make men take less care of themselves?—I should think not.

1171. Mr. *Wise.*] Would it not be a very serious loss to a poor man to spend two or three days in getting summonses and conducting a prosecution?—It would bring him into an awkward position amongst the shopocracy and mill interest; it would be very much better to be done by some person appointed for that purpose.

1172. Mr. *Peacocke.*] Putting flour out of the question, is there a strong feeling amongst the working classes upon the subject of adulteration?—Very strong, and that is proved by the co-operation amongst them.

1173. Mr. *Villiers.*] Who would be liable in your society if any adulteration were discovered in the flour which you sold?—The whole society.

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1174. In any proceeding before the magistates who would be the responsible party?—Very likely myself, as manager.

1175. Do the society hold one person directly responsible if there should be fraud?—They do this: the Board of Directors are the executive; I represent the Board of Directors, and, of course, should be quite liable to anything and everything connected with doing anything wrong.

1176. In any of the proceedings to which you have referred, do you know whether the magistrates distinguished between the ingredients discovered; some might be innocent, though only used for the particular purpose of lessening the price?—I believe the magistrates have never convicted in any one instance for mixing, except there has been an injurious material, either alum or hall plaster, or terra alba, which is quite injurious to health; they have never fined in one single instance for mixing barley.

1177. Have you known any case brought before the magistrates for mixing barley with wheat?—There has been no case proved.

1178. The magistrates have never inflicted a penalty in such a case?—Never, except for mixing alum, or some deleterious ingredient.

1179. Under what Act do you proceed against any person for adulteration in Leeds?—The 92d section of the Municipal Act.

1180. That is the power upon which the municipal authorities proceed?—Yes; and at Wakefield it is something similar.

1181. You do not know the Act in force, do you?—I believe it is a private section that they have in the Municipal Act.

1182. Do you know whether there is any distinction made in the Act itself between articles which are deleterious and those which are not so?—When Mr. Ginn was charged he was charged under the 6 & 7 Will. 4, c. 9, s. 12.

1183. Mr. *Wise.*] Do you think if a miller were to state that he put peas and beans into his flour that the people would buy it?—They would not.

1184. Mr. *Peacocke.*] Are you prepared to state that the artisans and operatives are restrained from prosecuting, especially from the fear of persecution by what you call the "shopocracy"?—I believe the working classes would not attempt it; they would not like to be brought into disrepute; they would come into contact with the public.

1185. Mr. *Moffatt.*] And why?—Very likely the working man's master's brother or cousin might be connected with the shop, and it might have the tendency of sacrificing his means of subsistence.

1186. Do you mean to say that that applies generally to the artisans of Leeds, and the towns in the West Riding?—I have never known a case attempted to be brought before the magistrates by a working man.

1187. Your belief is, that that arises from the fear of losing his employment?—I look at it in that light; it appears to me that he would bring himself into a very awkward position.

1188. Your impression is that the master manufacturers encourage these adulterations?—No, I did not say so.

1189. Did not you say that the artisan was deterred by the fear of being discharged from exposing these alleged frauds?—If you had been, as I have been, connected with the working classes, I am sure you would see the awkward position a working man would be in if he were to attempt to bring a miller or one of the shopocracy before the magistrates; he would be pointed at as meddling with matters far above his position.

1190. By the "shopocracy" do you mean the shopkeepers?—Yes.

1191. Mr. *Peacocke.*] What you mean is, that the shopkeepers stand by one another?—Of course they will endeavour to assist each other: what I mean is, that a working man would not like to be brought into such a position as to take a prominent part in such a proceeding.

1192. Do you mean to say that a shopkeeper would sympathise with a brother shopkeeper who was convicted of adulteration?—Of course. I will give you an instance: I was at Wakefield a week since, and I was speaking to a factor who had been a seller to the man who was convicted; he said, "I have just had one of the largest millers here, and I told him about Mr. Ginn having been fined for having adulterated his flour; and he said, 'Well, he is only one out of us; it might be me, or any one else.'" There was a sympathy and a fellow-feeling.

1193. Mr.

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1193. Mr. *Moffatt.*] I understand you to inform the Committee that the artisan is afraid of the shopkeeper, and that is the reason why he does not like to prefer these charges?—I believe the artisans would not attempt any such proceeding.

1194. Would that be from a fear that the shopkeeper would refuse to supply them with goods?—No.

1195. What then?—They would not like to become public inspectors, for the purpose of convicting any man.

1196. Mr. *Wise.*] Unless they had some powerful protector to take up the case?—Unless they were very independent working men.

1197. Mr. *Villiers.*] It would get them into trouble, somehow?—I think it would be a very unwise step for them to take, so far as I know the position of working men, and I have been amongst them all my life.

1198. Mr. *Wise.*] As far as you carry out this mill, you supply the thing asked for?—Yes.

1199. That is the principle upon which you proceed?—When we call it flour we mean wheaten flour, and when we make oatmeal we make it from shellings, not mixed with sharps; so with barley meal or ground oats, whatever we designate it, such it really is without variation.

Mr. *Edward Farrand*, called in; and Examined.

Mr. *E. Farrand.*

1200. *Chairman.*] YOU are connected with a Corn Mill Society situated in Rochdale?—Yes.

1201. In what capacity do you serve that society?—As bookkeeper and traveller.

1202. You are, I suppose, thoroughly conversant with the manner in which it conducts its business?—Yes.

1203. Will you state to the Committee what was the origin of that society?—The origin was with a view to get a pure and unadulterated article.

1204. Was there any demand on the part of the public for such a society?—Yes.

1205. In what way did that demand show itself?—The public were dissatisfied with the articles that they had been supplied with.

1206. Had you any public meeting at Rochdale upon the subject of the adulteration of bread?—There was a public meeting, and that was the purport of it.

1207. Was this society established on the same principle as the one we have heard has been already established at Leeds?—Nearly the same.

1208. The objects are the same?—Yes.

1209. What has been the result of the proceedings of that society since you have been connected with it?—The result has been quite different from the one at Leeds. After the first nine months we found ourselves deficient 450 *l.*, through not being able to compete with the other millers. The members called out for a pure article; but when it was offered, they were not satisfied with it.

1210. Why not?—The colour did not please them; they said the bread was sweet, but the colour was not good enough for them; they wanted it white.

1211. Was that the only objection?—Yes.

1212. Was there no objection in point of price?—No; there was no objection in point of price.

1213. Were you as low in price as other dealers?—We ranged about the same price.

1214. What was the consequence of this complaint on the part of the shareholders?—We were compelled to adulterate with alum to gain the customers, and bring back the 450 *l.* which had been lost.

1215. And you only succeeded upon the principle of mixing alum with the bread?—We are working and turning out now a pure article. The people seem to be more convinced than they were at the first start that an impure article is not good for the constitution, and now we are doing three times the business that we were doing after we began to adulterate.

1216. You carried on business for nine months with a pure article?—Yes.

1217. How long did you carry on business with the adulterated article?—Three years perhaps.

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1218. With what results pecuniarily?—We brought back the 450 *l.*, and worked the machinery perfectly clear.

1219. Why did not you go on, finding it was, in a pecuniary sense, so beneficial, with your adulterations with alum?—The first cause was a conviction or two that had taken place in the neighbourhood.

1220. Mr. *Villiers.*] Were those convictions of yourself?—No.

1221. *Chairman.*] Then you determined to go on selling a pure article?—Yes, unless the putting in of rice be considered an adulteration; that is done even yet.

1222. At the expiration of three years you entirely abandoned the use of alum in flour?—We did.

1223. What was the result the second time that you attempted to make pure bread?—At first there were a great many complaints indeed. We had samples of bread brought to us which had been made from flour turned out by other millers. They said, "This bread is nicer than the bread made from the flour you turn out, and we buy it 2 *d.* a score cheaper."

1224. Did they mean to say that it was better in flavour, or in colour only?—Better in colour; there was no complaint about the sweetness of the bread.

1225. They liked it to please the eye?—Yes, and the eye seems harder to please than the stomach.

1226. In spite of these complaints, your business has increased since you abandoned the adulteration with alum?—Yes.

1227. Mr. *Sheridan.*] Has the colour improved?—The colour is better than it was at the first start, because we have made improvements in the machinery; the colour is not now so good as it is with the alum in it.

1228. Mr. *Wise.*] Do you think the agitation under this inquiry has tended to open the eyes of people requiring very white bread, because they are aware that it cannot be so white unless alum is put into it?—They are well aware of it.

1229. The more aware they become of the custom, the less dissatisfaction they will feel with coloured bread?—Yes.

1230. Mr. *Villiers.*] Have you any prospectus of your company with you?—I have not. We do not publish our reports. We merely write them out and bring them before the members.

1231. How many members are there in your society?—Nearly 300.

1232. Have you a Board of Directors?—We have a Board of Directors.

1233. Are you under the provisions of any particular Act?—We have been under the Friendly Societies Act up to the present time. Last week we had a meeting, and we formally dissolved the company, pursuant to taking advantage of the Provident Societies Act.

1234. Are you not obliged to publish a list of the directors and the amount of capital under the Friendly Societies Act?—There is no compulsion, only so far as returning a report to Mr. Tidd Pratt each year. We have a form sent down which we have to fill up each year.

1235. That report has been furnished?—Yes.

1236. What does the report comprise?—It simply comprises the amount of capital invested and the number of shareholders; that is nearly all it does. We are put into this difficulty; the form sent down is not at all adapted for the purpose, and we cannot fill it up properly.

1237. Are you not required to return the names of your directors?—Not under the Friendly Societies Act, but under the Provident Societies Act we are compelled to do so.

1238. Does not the return to Mr. Tidd Pratt contain the names of any of the members of the society?—Merely the secretary and the trustees.

1239. Are you the secretary?—No; there is a separate secretary. I merely take the management of the books belonging to the mill.

1240. In what year was the mill established?—1851.

1241. You said there was a public meeting before it was established?—Yes.

1242. Who were the leading persons upon that occasion; who actually was elected your chairman?—I cannot say; I was not at the meeting.

1243. You were not connected with the mill at first?—No.

1244. How long have you been so?—From just at the end of the nine months, when they found themselves 450 *l.* deficient.

1245. You

1245. You joined the society when they began to adulterate?—I was appointed their servant at that time.

1246. Had you any experience in that line before?—None; I came out of a factory.

1247. Did you know that they were going to change their system?—No.

1248. Viscount *Goderich.*] You have only to do with the book-keeping?—I have only to do with the book-keeping.

1249. Mr. *Villiers.*] There were complaints made that selling pure bread would not answer?—Yes. The first time I went out to solicit orders it was a very unpleasant affair; so much so that I wished myself back again in the factory, and that was bad enough.

1250. What do you mean by its being an unpleasant affair?—I went out to solicit orders from our own members, and they complained so much about the quality that it made it really unpleasant.

1251. I thought you said they only complained of the colour?—It was the colour they complained about.

1252. You said just now that they complained of the quality?—We take that as the quality; people judge of the quality of the flour by the colour, in most instances.

1253. What did they complain of?—They said the colour was not good enough; they said it made their bread a bad colour; in fact they said it was as black as their hat.

1254. That was their objection to giving you fresh orders?—Yes.

1255. You cannot tell us whether there was any bad flour in the bread which they had before?—There was not.

1256. That you do not know of your own knowledge, because you were not connected with the company?—No; only we had it at our own house; there were a great many complained at the time in our own house about it: our family was as bad as anybody else.

1257. Viscount *Goderich.*] You dealt with the company before you worked for it?—Yes.

1258. Mr. *Villiers.*] Did the white bread disagree with you?—No; my family did not like the colour of the pure bread.

1259. You did not discontinue your custom on that account?—No.

1260. You had no other reason to complain?—No.

1261. What were the arrangements made by the company, when you joined it, for adulterating the flour?—The committee of management agreed that they should begin to put alum into the flour; that was all the arrangement made.

1262. What did they mean by putting in alum; did they consider that that was the ingredient necessary to give it the proper colour?—Yes; and it was found to answer.

1263. Mr. *Sheridan.*] It was not the fact that the bread was as black as you described?—No.

1264. That could not be from pure flour alone?—It was the fault of the machinery as well; but that was only one part of the fault; there is no doubt they exaggerated the matter when they said it was as black as their hat.

1265. Was it darker than pure flour generally is?—It was rather darker at that time.

1266. How do you account for that?—There was something wrong in the machinery, but that was altered.

1267. But the machinery would not make the flour black, would it?—If the wheat was not sufficiently cleaned, it would.

1268. Mr. *Wise.*] I presume that the machinery did not grind it properly?—No, it did not clean the wheat properly.

1269. Mr. *Villiers.*] Do you mean to tell the Committee that the people preferred the bread in consequence of the adulteration?—They did not know it for a while; the committee never told them; and after a time they found it out, and they were better satisfied than they had been before.

1270. You found that practice extended your custom?—We got it back directly.

1271. And you really ascribe that to the introduction of alum?—Entirely.

1272. You say that this adulteration went on for three years?—Yes. There was in the meantime an improvement made in the machinery. Our pure flour

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at present is not quite so dark as it was before; still it is not so good a colour as it was when it was adulterated.

1273. You have no doubt that there was some defect in the machinery, and that it was improved at the time that you began to adulterate?—Yes; but I may say that the improvement was made in the machinery a little prior to the adulteration with alum; it did not act so well as they wanted it to do, and then they introduced alum.

1274. What was the effect when you discontinued the alum, because you would expect the colour to be the same as it was before?—We had a great many complaints, as we had before, but we did not hear so much of it as we did before.

1275. I thought you said there was a general complaint?—The complaint was about the adulteration of the bread.

1276. Who complained then; it must have been the white bread they complained of, because they found it unwholesome, or somebody told them it was not pure?—They expected a good colour from the pure article; at least they expected a better colour when it was pure; but they were deceived.

1277. Did anybody complain about the adulteration of the bread when you began to adulterate?—They did not complain about the bread being adulterated, as they had done before; they could not when they knew that they were doing it themselves.

1278. Now you sell pure flour, what is the state of the public mind upon the subject?—They are more favourable to the pure flour than they were before, though we have some few complaints now; we cannot please everybody; every one is not yet convinced of the injury that adulterated bread does to the constitution.

1279. How do you recommend your society to the public now; by selling pure flour?—Yes; it is one of our laws now that the article should be perfectly pure.

1280. Viscount *Goderich.*] I think you said that you mixed rice with the flour now?—Yes; we do not consider that adulteration. I do not know whether it would be adulteration in a legal point of view.

1281. Mr. *Villiers.*] Why do you mix rice with the flour?—It is to improve the colour; that is the point aimed at by all millers.

1282. Is rice the same price as flour?—Yes; there is no advantage; rice is about the same price as wheat; if there was a difference in price, there is so little put in, that it could not make any material difference in the profits made by the concern; the quantity is, I believe, about four lbs. of rice to a quarter of wheat; that is to 480 lbs.

1283. What is the security against your adulterating bread again?—There is no security against it whatever, only as it is mentioned in the law, they can demand that the law shall be fairly carried out.

1284. Has there been any conviction against your society?—No; and not against any co-operative society; there has been no conviction for adulteration of any description.

1285. Since your society has been established has any conviction been procured against you?—No, none at all.

1286. Mr. *Wise.*] Are you aware that rice, when ground, absorbs a great deal more water than flour?—It does; that is no profit to the miller. We only sell flour; we do not sell bread.

1287. With regard to alum, you did not put that alum, I apprehend, into the flour with a fraudulent intention, but with the object of suiting the taste of the shareholders?—Just so.

1288. They did not like the pure bread, and you put it in to please them?—Yes, to please them; their money was going, and they were afraid of losing it all.

1289. Do the public buy at your mill as well as the shareholders?—Yes.

1290. Do they come extensively now?—Not to so great an extent; still we do a little business with the public.

1291. It is confined principally to the shareholders?—Yes.

1292. How did the feeling arise in the public mind at Rochdale that white bread was unwholesome?—Merely from the statement that has been made in the newspapers.

1293. They

1293. They found that the application of alum enabled an inferior flour to be used and make it look white?—Yes, just so.

1294. Mr. *Moffatt.*] How many customers have you on your books that you supply with flour?—Our flour is sent out to the agents, and they retail it; we chiefly supply the different co-operative stores. There are a great many co-operative stores in the neighbourhood of Rochdale, and those stores have money invested in the mill, and they appoint a person to represent that money, and purchases are made in that man's name, and the flour goes to the shop where they retail it.

1295. Have you formed an estimate of the number of people who consume the flour that comes from your stores?—Perhaps about 10,000.

1296. Do you think most of those people were aware, after they had complained of the dark colour of the bread produced from your flour, and the alteration was made, that it was adulterated with alum to give it a whiter colour?—After a time we made no secret of the matter; we told them what had made the improvement.

1297. Did you find the consumption largely increase while the customers had that knowledge of the adulteration?—It above doubled itself.

1298. Mr. *Villiers.*] You were not able to continue the adulteration; you were obliged to change the system?—Yes; it was done from the fear of conviction at first.

1299. *Chairman.*] The prejudice in favour of alum has passed away now, and the people prefer the purer bread, although the colour is not so satisfactory?—They do.

1300. Mr. *Sheridan.*] Should you have continued the custom of using alum if the fear of prosecution had not deterred you?—We might have done so for a little time longer. I think it would have died away now even if that prosecution had not taken place.

1301. Was that in consequence of having made up the deficiency of 450 *l.*?—There was such a noise in the newspapers of the injury that was being done to the constitution by the use of alum that people began to be convinced that it was injurious.

1302. Mr. *Villiers.*] What was the difference in price before and after you adulterated your flour?—The only benefit we got from it was an increase of trade.

1303. Mr. *Moffatt.*] Did you find, amongst the 10,000 people whom you supplied, that the adulterated flour produced any prejudicial effect upon the health of the people?—We could not see any difference.

1304. Did you hear any complaints of its being prejudicial to their health?—I only speak from a matter of opinion.

1305. Do you know any fact of its having been alleged that when they took the white bread instead of the brown bread, their health was worse in consequence of taking the white bread adulterated with alum?—I never heard of such a fact.

1306. *Chairman.*] I presume if they suffered they would complain to their medical man rather than to you?—I never heard anything of the sort.

1307. Mr. *Moffatt.*] What proportion of alum was mixed with the flour?—About 1 lb. to a quarter of wheat.

1308. Mr. *Sheridan.*] How many loaves would that make?—It would make from 17 to 18 score of flour.

1309. What quantity of alum would there be to the 4 lb. loaf?—It would be a very small fraction.

1310. Merely sufficient to make the bread a whiter colour?—Yes.

1311. Mr. *Moffatt.*] Is that proportion of admixture of alum the quantity generally used by the trade?—I do not know. When we ceased adulterating other people were compelled to cease, through the noise which had been made in the newspapers. There was not that material difference between our bread before it was adulterated and afterwards as there was with other people's; we found many customers that we could never please before came to us then, and we have kept them ever since.

1312. The bread generally was rather of a darker colour, in consequence of the bakers and flour dealers ceasing to use alum?—Very nearly all the people in our neighbourhood bake their own bread; we have not a single baker's shop about us. The bread generally was of a darker colour after there had been

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been one or two convictions than it was before; not only ours, but other people's.

1313. Was there any other mixture besides alum put in the bread at the time you adulterated it?—No.

1314. No potato starch?—No.

1315. Mr. *Villiers.*] Or plaster of Paris?—No.

1316. Mr. *Peacocke.*] Do you openly avow to the public that you adulterate with rice?—Yes; any one has the chance of going through our mill and seeing any portion of it.

1317. You do not mark it at all?—No, we tell them what it is.

1318. Mr. *Sheridan.*] Is there much difference in colour between the bread made of your flour and bread made of flour adulterated with alum?—Yes, there is a difference; it is of a darker description.

1319. Mr. *Peacocke.*] Have there been many convictions for adulteration about you?—There have been no convictions exactly in our neighbourhood. In the neighbourhood of Halifax and Wakefield there have been various convictions, of which Mr. Emerson has spoken.

1320. Is there a feeling amongst the working classes in favour of public inspectors?—Yes.

1321. Are you in favour of public inspectors?—I am.

1322. Do not you think it would lull the public into a false security?—I do not think it would. Why we complain about the present plan of conviction is, that we do not think the examination of the different flours is general. We think that the parties are picked, and for protection we ought to be put upon one footing, and then it will do.

1323. Do not you think the public can take care of themselves?—No.

1324. You say there is a strong impression amongst the working classes about you on the subject of the adulteration of flour?—Yes.

1325. Do you say, like the previous witness, that the people round Rochdale are restrained from prosecuting from fear of the shopkeepers?—They are.

1326. You have no hesitation in saying that?—None whatever.

1327. In your opinion there is a sympathy amongst shopkeepers, even though one be convicted of adulteration?—Yes. The working people are put in this position, they know if they take any prominent part in a conviction of that description, that they may be picked out by their employers and thrown out of employment, and they will have a difficulty in getting employment.

1328. The conviction in their minds is that they will be marked men?—Yes, that is what they are afraid of.

1329. Mr. *Wise.*] Do you mean to say that if a miller were convicted of mixing plaster of Paris with flour, all the tradesmen in the town would not be disgusted and horrified, but would sympathise with him in case he were prosecuted?—Yes, they would.

1330. Mr. *Moffatt.*] And further, you believe that the employer of the artisan would be very likely to discontinue his employment by reason of his having exposed the fraud?—They have a fear on their minds of that taking place.

1331. Is that fear, according to your belief, generally prevalent amongst the artisans of Rochdale?—Yes.

1332. I think you stated that you do adulterate your flour with rice at the present time?—Yes.

1333. You believe that to be beneficial to the colour of the bread?—Yes; we should be very glad to discontinue it if every one was put upon the same footing.

1334. It is more agreeable to the buyer, and there is nothing prejudicial in the article which you mix with the flour?—None whatever.

1335. In the case of inspectors being appointed, I apprehend your flour would be subjected to seizure, and you would be subjected to punishment for selling an adulterated article?—If we did adulterate; if we understood that mixing rice was considered adulteration, we should drop it at once.

1336. Mr. *Wise.*] Perhaps you are aware that in the Act of Parliament rice is permitted to be mixed with flour?—We never could be satisfied upon that point.

1337. *Chairman.*] It is not forbidden?—No.

1338. Mr. *Wise.*] Are you aware that the mixture of bean meal or rice meal is not illegal?—I was not aware. We considered anything that would reduce the price of the article adulteration.

1339. Viscount *Goderich.*] You say that mixing rice with the flour does not reduce the price?—No.

1340. Mr. *Peacocke.*] Do you advertise that your flour contains rice?—No.

1341. Mr. *Wise.*] You do not hide it from the public?—No.

1342. Viscount *Goderich.*] If any of your customers asked you, you would be prepared to state what it was at once?—Yes. We are compelled with oatmeal to mix fine sharps; we call them thirds; and the bread bakers do not like it unless it has the thirds mixed in. We sell the pure article, and the adulterated article is let down in price.

1343. Mr. *Sheridan.*] What proportion of rice do you put to a quarter of wheat?—About 4 lbs.

1344. Mr. *Villiers.*] What is your dividend under the system you are now pursuing?—It is divided amongst the members in proportion to their purchase.

1345. What does the company pay?—£. 5 per cent. upon the capital; and whatever profit is made afterwards is divided amongst the members in proportion to their purchase.

1346. When you mixed alum with the flour, you were not making so large a profit; the dividend was not so large as it is now?—There is no difference in the profit, only in proportion to the amount of business done.

1347. Viscount *Goderich.*] Under the Friendly Societies Act you were only permitted to deal with your own members?—Under the Friendly Societies Act we were only permited to deal with our own members. We are taking steps to enrol under the Industrial Provident Societies Act, because we find it impossible to work under the other. I am connected also with a co-operative store in Rochdale.

1348. *Chairman.*] What articles are supplied from those stores?—We supply almost every article of food.

1349. What was the origin of those co-operative stores?—The origin was to sell a pure article, and to enable the men, we may say, to make a profit for themselves.

1350. Which was the more important of those two elements in operation?—Getting a pure article.

1351. That was the first thing thought of?—Yes.

1352. Do you mean to say that you were purchasing articles of so impure a quality that the working classes thought it necessary to establish stores of their own for the purpose of getting pure articles?—Yes; they knew that by that means they would have a complete control over what they did purchase.

1353. In your opinion there was a general impression on the minds of the public that articles of food were adulterated?—Yes.

1354. Mr. *Villiers.*] Will you name some of the articles to which you are referring?—Coffee, pepper, tea, and almost every kind of food.

1355. Meat?—Butchers' meat.

1356. Do you apply that observation to all those articles, that they were generally impure before the establishment of your stores?—Yes. I may mention one fact; at first, when that society was established, there was a complaint when they began to sell that the coffee was not so strong as the coffee they had been accustomed to having, and to please one or two parties there was a little sold as coffee and chicory mixed; it was discovered by the members, and as soon as it became known to the members that the committee had agreed to do this thing it was brought before a general meeting and upset; nothing has been sold since which they knew to be adulterated.

1357. When was the complaint made; before the chicory was mixed with the coffee or afterwards?—Before.

1358. You mixed the chicory with the coffee to make the coffee stronger?—To make it stronger; it was only done for a few weeks, and has never been done since.

1359. Did it answer the purpose?—It made it look stronger.

1360. It was like the case of the alum in the bread; they did not like the colour of the coffee?—They did not like the colour of the coffee.

1361. How long did you sell it mixed?—Not above three or four weeks.

1362. Was the mixing profitable?—It was sold at a lower price.

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1363. Viscount *Goderich.*] The members objected to the mixture?—They objected, and they would not allow the adulterated article to be sold in the shop; any resolution passed by a general meeting must be carried out.

1364. Mr. *Villiers.*] Were there any other groceries sold that were not pure?—No.

1365. Did the members remonstrate for the purpose of returning to the original principle for which they were established, to sell a pure article?—Yes.

1366. Without any reference to profit one way or another?—I must say this, that the best articles must be purchased or they will not sell in that shop.

1367. You did not undertake to sell lower than other tradespeople?—No.

1368. Mr. *Gregson.*] Do you sell at cost price?—No; we sell as near the trade price as is possible.

1369. Mr. *Villiers.*] Your observation as to adulteration does not apply to the other things you sell, such as clogs and coals?—No; if inferior articles are sold as the better articles they can tell for themselves.

1370. What led to the selling of those articles?—The profit to be derived from supplying themselves with anything they require.

1371. You do not undertake to serve those articles at a lower price; and there was no complaint of the tradesmen's articles being inferior before your company was established?—They wanted to make a provision for themselves; in fact they want to supply themselves with everything they require.

1372. That was partly the principle of the society, was it not?—That was one; as I said at the beginning, they had a desire to realize the profits of the sale.

1373. Viscount *Goderich.*] They wanted to put in their pockets the profit made upon those articles?—Yes.

1374. Mr. *Gregson.*] Do you make the clogs which you sell?—Yes, they are made on the premises.

1375. *Chairman.*] In point of fact, your society resembles the societies which exist in France; that is, associations of persons in particular trades, who divide amongst themselves the profits of their own work; that is one of the objects of your society?—Yes.

1376. Mr. *Villiers.*] There is no attempt on the part of your society to make all the articles themselves, but you employ people who have been brought up to the business?—Yes.

1377. Mr. *Moffatt.*] You manufacture and divide amongst yourselves the profits which you would otherwise pay to the retailer?—Yes.

1378. Mr. *Villiers.*] How long has this co-operative society existed?—It was established in 1844.

1379. Has it existed as it is now throughout that time?—It has. It has very much increased, and is still on the increase; it has increased nearly 500 members the last 12 months.

1380. Mr. *Moffatt.*] What amount do you turn over annually?—We draw from 1,200 *l.* to 1,400 *l.* a week, from 1,450 heads of families.

1381. Your gross returns are equivalent to about 70,000 *l.*?—Yes.

1382. What profit does that yield?—They pay 5 *l.* per cent. upon the capital invested, and a dividend is then made from what is left in proportion to the amount they purchase; it runs generally to about 1 *s.* in the pound.

1383. Mr. *Villiers.*] What are the shares?—£. 1. No member can take less than five, nor more than 100.

1384. Mr. *Gregson.*] What is the amount of your capital?—From 7,000 *l.* to 8,000 *l.*

1385. Viscount *Goderich.*] Are you enrolled?—Yes, under the Industrial Provident Societies Act.

1386. Mr. *Villiers.*] Do you think many working men have shares?—They are all working men; there is only one independent gentleman amongst them, that I know of.

1387. Do not you think tradesmen have some shares in this society?—Not in the town; there may be some little petty shopkeepers outside the town that have shares in it.

1388. Viscount *Goderich.*] Are many of your members employed in factories?—Yes; it is to improve their condition. We allow members who take shares to pay the money in instalments at 3 *s.* 3 *d.* a quarter.

1389. Mr.

1389. Mr. *Wise.*] Do the men take a pride in the society working well?—Yes; they boast much of it.

1390. In your opinion, has it tended to promote moral elevation and to encourage prudence amongst the working classes in the town of Rochdale?—Yes.

1391. Mr. *Moffatt.*] Have most of the shareholders paid up the full amount of their shares?—No, a great many have not. There is a provision at the discretion of the committee by which they can withdraw down to 2 *l.* in cases of distress; I could relate instances where it has actually kept people off the parish.

1392. Then it acts as a savings bank as well as a shop?—Yes.

1393. Viscount *Goderich.*] Has the society existed during periods of distress in the district?—There was 1846, which cannot be forgotten.

1394. You lived through it?—We lived through it with great difficulty.

1395. Mr. *Villiers.*] Looking to the original object of this society, as far as regards the purity of the provisions, they would have no objection to the appointment of public inspectors?—None whatever; they would be glad of it.

1396. Mr. *Gregson.*] Do you sell both by wholesale and retail?—There are two departments, the wholesale and the retail, and that is the reason why some of the small shopkeepers outside the district have joined the society.

1397. Mr. *Sheridan.*] In order to obtain goods for their own shops?—Yes; they get them at the same price as elsewhere, and reap a portion of the profits. The two concerns are kept separate. The dividends are not so large on the wholesale as on the retail trade.

John Challice, Esq., M.D., called in; and Examined.

1398. *Chairman.*] YOU are a physician in Bermondsey?—Yes.

1399. You have had some experience in that district upon the subject of adulterations, both as to articles of food as well as medicine?—I have.

1400. Will you be good enough to state to the Committee what is your general impression as to the existence of adulteration, and then perhaps you will give some few instances you may be acquainted with of your own knowledge, and then state the general effect upon the health of your district?—In the first place, as to bread, the most important article of all, I am convinced that adulteration is general, in fact, even the best bakers admit that they use 12 ounces of alum to 140 two-pound loaves; that is a proportion which I am convinced is injurious to the health of all classes, but most especially to the poorer classes, who require pure bread.

1401. Why do you say the poorer classes require pure bread?—Because they take more of it, and because, owing to other physical causes, their stomachs are perhaps more incapable of digesting a mineral than that of others who have pure air and plenty of exercise.

1402. Those 12 ounces of alum are considered the minimum?—That is considered the minimum; when the flour is bad they use double that proportion I understand.

1403. Of course with proportionate injury?—Yes.

1404. It has been stated to the Committee, on the evidence of persons conversant with chemistry, that alum when mixed with bread loses a good deal, if not the whole of its injurious properties; that its astringent properties are destroyed by decomposition, and it exists in a mineral element which is in itself, when separated, quite innoxious?—I do not believe it; burnt alum has a very powerful effect upon the animal economy; when burnt it goes through quite as great a heat as occurs in baking alum in bread.

1405. Is it liable to dissolve in the process of bread making?—It might form afresh, but the base of the alum must remain in the bread.

1406. The alumina?—Yes.

1407. Would you consider the alumina injurious to health?—Undoubtedly.

1408. Mr. *Sheridan.*] You said that bakers admit putting a certain proportion; where did you get that admission?—I got that admission from three large bakers within the last two days, and from one, who is a very large contractor, this morning.

1409. *Chairman.*] What is their object in mixing alum with the flour?—

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The object is, they state, that it makes the bread of better appearance; my baker, who gave me evidence this morning, is a very practical man; he says, he believes it merely saves trouble, and he is of opinion that bread could be made quite equal, if a little trouble were taken, without the alum; alum was originally substituted for salt when salt was very dear; if an extra portion of salt were used instead of alum, the bread would be quite as good in appearance without the alum as with it.

1410. Mr. *Sheridan.*] That would not be saving trouble; that is another article?—Exactly; at the present moment they use alum to save trouble.

1411. If they used a little more trouble they could produce a better article?—Yes.

1412. Would the additional trouble increase the price?—No; the baker said that on one occasion he used no alum for a time, and the workmen said it was so much more trouble they would not work for him.

1413. Mr. *Gregson.*] Does the proportion of alum you speak of materially affect the taste of the bread?—I do not think it can be detected in the taste; it causes the bread to become dry sooner.

1414. Mr. *Wise.*] If salt is substituted for alum the question of expense cannot arise at this time, as salt is cheaper even now?—No; I believe that salt might be substituted for alum with amazing advantage to the public.

1415. Would it have the same effect in making what is rather yellow bread white?—Yes, the chlorine in the salt would; if there were more salt put in it would, in all probability, make the bread whiter.

1416. Is it not your opinion that the constant use of alum has an effect upon the gums, the teeth, and the mucous membrane of children?—The constant use of alum has the effect especially of creating irritability in the bowels, at one time constipation, and at another time a disposition to diarrhœa and dysentery.

1417. Have you any hesitation in saying that alum is used almost universally in the bread of the metropolis, and is injurious to health?—Yes.

1418. Mr. *Peacocke.*] We have heard that in the process of baking the alum is dissolved to its component parts; do you think that the heat necessary for baking a loaf is sufficient to dissolve it?—I do not think it is.

1419. I apprehend for the purposes of baking it would be about 250 degrees?—Yes.

1420. And it would require something like 400 or 500 degrees to dissolve alum into its component parts?—I do not know that of my own knowledge, but I should say it would.

1421. Mr. *Moffatt.*] At what temperature will alum maintain its crystalline form?—I cannot give a positive answer as to that; I have tasted and seen alum in bread which I have purchased in bakers' shops.

1422. In a crystalline form?—Yes.

1423. Can you give a simple, easy test by which a poor person could find out alum?—It might be done.

1424. Upon macerating the bread, and leaving it in water, it would leave a taste in the water?—Yes.

1425. Have you found anything in bread, besides alum, or have you heard, on good authority, that anything is used besides?—No; at the present moment rice is used very extensively by cheap bakers; the loaf is not so nutritious, I consider. It enables them to sell the loaf nearly a penny the quartern loaf less by the large absorbing power of the rice. I think, of course, that is a fraud upon the purchaser in purchasing a wheaten loaf.

1426. The loaf holds more water?—Yes; I believe a sack of flour, with 40 pounds of rice, will make about 116 quartern loaves, while a sack of pure flour will make only 95.

1427. Mr. *Peacocke.*] Would not the effect of rice, like the effect of potatoes, be that a poor man after having taken a meal of rice would feel more filled out?—It would not digest so soon.

1428. Is there not a disposition on the part of the poor to prefer that sort of diet, just as there was in favour of potatoes, in which there is not the same amount of nutrition as in bread?—

1429. *Chairman.*] What other article do you consider to be very highly adulterated?—As regards beer I have a very strong opinion, not from analysis, but from observing closely the effects of beer upon the working classes; that is particularly

particularly evident when workmen first come to London; they find the London beer produces intoxication, with furious excitement, which they say they never felt from drinking their home brewed beer, ale, or country beer. That excitement is closely analogous to the effect produced on the human system by many narcotics; I will not mention them because I do not think it right to mention them. The workman goes to a public-house where he can drink beer which will make him feel elevated or intoxicated.

1430. Do you believe that very frequently the intoxication is not the product of malt and hops, but is the result of some dangerous chemical compound?—I feel as confident as I can of that as I do of anything that has not been proved to demonstration.

1431. Mr. *Moffatt.*] Have you analysed any beer?—No.

1432. Mr. *Peacocke.*] Coculus indicus it would be very difficult to trace in beer, would it not?—Yes.

1433. Mr. *Moffatt.*] Have you experienced yourself those prejudicial effects?—Yes.

1434. Mr. *Peacocke.*] That is the only test by which you could discover the presence of coculus indicus?—Yes.

1435. We have been told that there could be no inducement to put coculus indicus in it. I apprehend there would be a double inducement: in the first place, if they diluted the beer with water coculus indicus would restore the frothing power to the beer?—Yes, it will have that effect. I may state that I attend publicans, and there are many who sell the article exactly as they receive it from the brewer.

1436. *Chairman.*] You believe the brewers' beer is pure?—Yes; I believe there are many publicans who feel compelled to use this contaminating principle.

1437. Mr. *Moffatt.*] Do you believe that contaminating principle to be coculus indicus?—I have sometimes suspected it was, and I have had my suspicion that it was tobacco juice.

1438. Does that have a deleterious influence?—It has an intoxicating influence.

1439. Mr. *Peacocke.*] The same as coculus indicus?—Probably not so immediately; it is a powerful anodyne.

1440. It would not give it that frothy appearance?—I think not.

1441. Mr. *Moffatt.*] Is there any other ingredient in porter?—I know of no other; but I should express a strong opinion upon that.

1442. Sugar?—Sugar, no doubt, is used, but I would not call that an injurious adulteration, in the same way as mixing rice with bread; I am speaking of adulterations injurious to health.

1443. Mr. *Gregson.*] What kind of narcotics do you allude to?—Probably with a view to publication I had better merely give a general opinion.

1444. *Chairman.*] In point of fact you could not prove it; it is a mere matter of suspicion; but you are quite sure that there is an admixture?—Yes; I have seen instances of a man drinking a pint of beer at a public-house for the first time, and he has been in a complete state of coma.

1445. Mr. *Peacocke.*] Do you mean a man who had been in the habit of drinking water instead of beer?—No, I mean a man who had been accustomed to home brewed beer in the country.

1446. *Chairman.*] Is there any other article upon which you wish to make a remark?—In regard to meat, in poor neighbourhoods it is a matter of notoriety that there is meat exposed to sale, which it is very evident, from the viscera being also exposed at the same time, shewing a mass of disease, that the animal must either have died or have been in a dying state when killed.

1447. Was that in the Borough?—I am speaking of the poorer neighbourhoods in London.

1448. Mr. *Gregson.*] In London generally?—Yes. I have been told of one instance of a butcher who never eats a morsel of meat out of his own shop; he always sends to another butcher for it.

1449. *Chairman.*] Can the poor detect bad meat for themselves?—No; they always buy where it is cheapest.

1450. Mr. *Moffatt.*] Your belief is that the poor are not judges of meat?—They are always perfectly helpless in that respect.

1451. Excepting with regard to odour?—It may be that animal poison cannot

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be detected by chemistry; we know how subtle it is. I will call the attention of the Committee to the almost universal existence of carbuncle, which is quite a fresh disease in London during the last four or five years. I think it is very probably traceable to the large quantity of diseased meat which is now eaten in London.

1452. Mr. *Moffatt.*] Has carbuncle much increased amongst the poorer classes?—Yes, and it is more malignant than amongst the better classes.

1453. *Chairman.*] It also exists amongst the higher classes?—Yes.

1454. If carbuncle exists amongst the higher clases you could hardly trace it to the use of diseased meat?—Possibly not, but I do not think you can be quite sure that you do not yourselves eat it. There is a regular market for diseased food, as for the other classes of food; it is sold generally to the poor, and the poor have no help in the matter.

1455. Mr. *Moffatt.*] What are the tests by which you would attempt to detect diseased meat?—When I see the lungs a mass of tuberculous matter, and when I see the kidneys decomposed, I have no difficulty in concluding that the meat is diseased.

1456. Taking the meat apart from the viscera, how would you detect diseased meat?—I should imagine that microscopically the fibres of the meat would appear of a different structure.

1457. If two pieces of meat lay upon this table, one diseased and the other not diseased, how would you tell which was diseased?—I think any one might tell.

1458. By what test?—By the consistence; one would be flabby and the other moist.

1459. The diseased meat would be flabby?—Yes.

1460. Is there not at the present moment a law against selling diseased meat?—There is a law, but the punishment seems never to be inflicted. I was, by chance, a short time since, at the Old Bailey, and a man was undergoing his trial for bringing up the carcass of a diseased animal to London, that had been thrown ashore at Erith, out of a vessel, evidently in a frightful state of disease. A butcher at Erith had dressed it on the shore and prepared it for the London market in the presence of all the people in Erith. There happened to be a gentleman there who protested against it. The butcher said it would do for the London people. He brought it up to Leadenhall-market; he was followed by this gentleman, and when the case came to be tried, instead of being treated seriously, it appeared to be made a complete joke of. They laughed about the meat that would be sold to the Londoners, and its being converted into sausages. It seemed a very ludicrous matter to the counsel, and the man was held to have committed no offence because he had not offered it for sale.

1461. Mr. *Peacocke.*] You said that he took it to Leadenhall-market to deliver it into the hands of the salesman?—Before he delivered it to the salesman he was given into custody.

1462. Are there not inspectors at Leadenhall-market?—There are.

1463. Is it not their business to prevent the sale of unwholesome meat?—It is.

1464. Have you never heard of a conviction?—There are some convictions, but not in proportion to the number of offences.

1465. You say there is a regular trade in diseased meat?—I know there is a regular trade in diseased meat by persons who buy diseased meat to sell to the poorer classes.

1466. Mr. *Gregson.*] In large quantities?—Yes, they carry on a large trade.

1467. Mr. *Moffatt.*] And fish in the same way?—Fish is not fresh after a time, so that the poor can protect themselves against buying stale fish.

1468. Mr. *Peacocke.*] Do not you consider that in the poorer quarters of London adulteration is carried on to a much greater extent than it is in the richer quarters?—Yes, I am sure it is.

1469. Mr. *Moffatt.*] Have you had the means of testing what are termed the richer parts of London?—No. I am not confined to test. I taste the food I eat. Any one who pays the slightest attention must know that the poorer classes are supplied with articles grossly adulterated. Life is often sacrificed by the adulteration of mustard, for instance.

1470. What is mustard adulterated with?—It is adulterated with flour, which entirely alters its character. If a medical man is called to a child with inflammation

inflammation of the lungs, and he wishes to produce counter-irritation, he orders a mustard plaster; when he calls again he finds the child is worse, probably dying, the plaster not having taken any effect; and because a strong stimulant, as it is supposed, has taken no effect, the parent has probably given up employing other remedies, when, in reality, the mustard plaster has been merely an application of flour and turmeric, with a very small portion of mustard, which produces no effect. I have frequently applied pure mustard, and convinced the parents that there could be effects produced which could not be produced by the application of this flour and turmeric.

1471. Have you had adulterated mustard analysed?—The taste itself will tell you that it is simply flour, coloured with turmeric, with a small portion of mustard, not more than 25 or 30 per cent.; it is known in the trade that there are three or four qualities sold, according to their reduction by flour.

1472. Mr. *Peacocke.*] Is not mustard known to be adulterated in such proportions that medical men have been in the habit of recommending spirits of turpentine to be sprinkled on the parts required to be affected?—Yes; but mustard is an article which you ought to find in every house, as an article of domestic consumption. I believe I was the first who introduced the application of mustard husks, which are the refuse of the mustard manufactories, and which would, in reality, produce the effect which we want from the pure mustard; it contains the essential oil of mustard; the manufacturers do not wish it known, because it would interfere with the sale of the husks, which are used as manure.

1473. *Chairman.*] Is there any other article upon which you have any evidence to offer?—Yes; arrowroot, which is sold to the poor, generally speaking, I should say, contains potato powder, about 50 per cent. I know it has been held that potato starch is equally nutritious with arrowroot, but I do not believe it. I do not think it is so easily digested. The potato flour certainly does not hold together so long in suspension as the genuine arrowroot.

1474. Supposing a shopkeeper offered you, on the one hand arrowroot with potato flour, at 1 *s.* a pound, and on the other pure arrowroot, at 1 *s.* 3 *d.*; which should you prefer?—I should buy the pure arrowroot. I have seen this myself: in watching very closely the effects of nutriment upon the poorer classes, when I have recommended them arrowroot, they have said, "We do not like it." It is very nice-looking; potato starch is rather better-looking than the genuine arrowroot; but they generally go to the druggists. I do not think the druggists adulterate the arrowroot, it is the grocers.

1475. Mr. *Wise.*] It has not the delicate flavour which the arrowroot has?—No; I do not believe it has.

1476. To say the least of it, it is a gross fraud?—Yes.

1477. Mr. *Moffatt.*] You say that you have found as much as 50 per cent. of potato flour mixed with arrowroot?—I know, from the admission of grocers, that that is the proportion that they mix with it when they sell it at 6 *d.* per pound; they buy the potato flour at about 2 *d.*

1478. Mr. *Kinnaird.*] Did the grocer openly state that to you?—No; I got it confidentially.

1479. Mr. *Moffatt.*] Would not the mixture be easy to test?—Yes; the crystals are differently shaped; it is very easily tested. If you recommend for the child of a poor person recovering from fever arrowroot with milk, and the child gets potato flour and chalk and water, you are not surprised at the child being starved to death.

1480. Do you mean chalk and water instead of milk?—Yes.

1481. Viscount *Goderich.*] You said that the presence of potato flour in arrowroot was very easy to test; I presume you mean by scientific persons, but not by other persons?—Yes.

1482. *Chairman.*] What is your experience with regard to milk?—My experience is, that three kinds of milk are openly sold.

1483. What are they?—Twopence, threepence, and fourpence a quart.

1484. Mr. *Moffatt.*] What is the difference of quality?—The difference is made up by water and by chalk.

1485. Are each of those milks of equal freshness?—I do not know as to that. Some few years since I was chairman of the Board of Guardians of Bermondsey, and our contract for milk, there being from 200 to 300 children, was large. The terms of the contract were, pure milk at so much per barn gallon. A man from

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from Essex tendered to supply us at 5½ *d.* a gallon, and there was a tender from another man at 1 *s.* a gallon. The tender of the one at 5½ *d.* a gallon was taken, and it was soon found that it was anything but what it pretended to be. All the milk was adulterated; it turned sour, and was altogether bad milk. We then accepted the contract of the man at 1 *s.* a gallon, reducing the milk 100 per cent. After putting an equal quantity of water to the milk, we found it better milk, more satisfying to the children, and more nutritious than that which was supplied at 5½ *d.* One of the witnesses has said before that which I can readily imagine to be the case, that working men do not like to point out these things; neither does a professional man, because he makes many enemies. This contractor for the supply of milk ought to be exposed and punished.

1486. Mr. *Peacocke.*] Did you analyse the milk?—No; it was found that there was a great sediment, which established that there was chalk and a large quantity of water.

1487. Was there anything else?—No.

1488. Mr. *Moffatt.*] What price had you paid previously for milk at Bermondsey?—From 8 *d.* to 9 *d.* a gallon.

1489. Was it pure milk which you obtained at 9 *d.* a gallon?—I am not prepared to say.

1490. Was it pure milk which you obtained at 1 *s.* a gallon?—Yes.

1491. As tested by the lactometer?—Yes.

1492. How long did you take this milk at 5½ *d.*?—About a month before there was a report from the master that it was very bad milk.

1493. With that great difference of price, did it not occur to the Board of Guardians to test this milk before it was received?—The guardians think that they are trustees of the people's money; the man gave the contract, and I do not blame the guardians for accepting it.

1494. The guardians do not think that they have any responsibility to see that the things supplied are pure?—I say they do; directly the master reported that it was bad milk it was discontinued.

1495. Mr. *Kinnaird.*] What would be the effect upon a young child of taking a quantity of this chalk mixture?—It would in all probability, if it were a child of feeble digestion, block up the intestines, and kill the child; chalk is very insoluble, and soon settles down.

1496. Mr. *Moffatt.*] Did you say that chalk was found in the milk?—I must correct myself; it was not tested or analysed; there was a deposit found.

1497. Mr. *Peacocke.*] I apprehend it is not the duty of the Board of Guardians to inquire into the food supplied, but rather the duty of the master of the poor-house?—It is the duty of the Board of Guardians to inspect the food.

1498. *Chairman.*] Have you any evidence to give with respect to any other article?—Wine. Wine is an absolute necessary for the poor when they are recovering from sickness; they have no means of getting pure wine; the adulteration of it is fearful. I have seen many instances in which, when I have recommended port wine, and it has been procured at public-houses, instead of acting as a wholesome stimulant and a restorative astringent, it has produced pain, acidity, griping, irritation and mischief, instead of good. It is a matter of notoriety, I believe, that a composition is sold as a substitute for port wine.

1499. Mr. *Moffatt.*] What is that composition?—I believe the astringency imparted to the liquid is by alum; I believe there to be an infusion of logwood; I believe there to be sloe-juice and sugar; it is a chemical combination entirely different from port wine.

1500. Have you tasted it?—Yes, and I do not like it.

1501. Does it taste like port wine?—No; I like a glass of port wine, and I wish the poor could have it; the taste is sufficient to deceive a poor person; the poor have a great craving for wine; they believe it is a luxury that will restore them to health.

1502. Have you found any other sort of wine adulterated?—I believe sherry is manufactured out of brandy.

1503. Is it brandy and water?—Brandy and water, flavoured probably with some bitter almonds, or something of that kind.

1504. There is nothing, so far as your experience goes, of a prejudicial character in the manufacture of sherry?—No.

1505. In the port wine you found adulterated, you believed there was something prejudicial to the health of the person who took it?—Yes, it does harm instead of good. I think there is a good opportunity, by means of Sir Benjamin Hall's Metropolitan Management Bill, that the vestries might have power invested in them by means of their inspectors of nuisances to detect adulteration. I think it would do away with the objections made by some persons to centralization and so on. There is a local Board in our parish who could have the control and punishment of those matters. I would suggest that a large fine should be inflicted upon the first conviction, to be quadrupled upon the second conviction.

1506. Mr. *Wise.*] So as to make it a kind of semi-municipal sanitary arrangement?—Exactly; I am convinced that that might be done without much difficulty.

1507. Mr. *Peacocke.*] Is there a strong feeling amongst the poor people of Bermondsey on the subject of adulteration?—I think they are helpless in the matter; I think they require to be protected.

1508. You said just now that no poor person had ever taken up a case?—I did not say that; I said there was a general reluctance amongst all classes to make themselves the advocates or criers-down of any custom that was prevailing.

1509. You said that they did not like to place themselves in an invidious position?—They would be making themselves public prosecutors.

1510. Do you think the sympathies of the shopkeepers generally would be with the person showing up the fraud or the convicted adulterator?—I do not wish to be held out as a libeller of persons who keep shops, but I am afraid there is a very low tone of feeling upon that subject.

1511. Under those circumstances, if it was a question for a jury, for instance, there might be very considerable difficulty in obtaining convictions?—No; I think the vestries who have been elected under the new Act of Sir Benjamin Hall, as a class of men, are intelligent, independent men. I do not see why the evidence might not be made so clear that the jury must convict. If a law were passed against putting alum into bread, and making it an offence, and if evidence were brought clearly that there was a loaf purchased at a baker's shop, and it contained so much alum, a conviction must be easy enough.

1512. Mr. *Gregson.*] You have recommended inspectors of nuisances to be employed; do you think they are capable of detecting these adulterations?—No, but the sanitary officers under the Board would; the inspector of nuisances would bring the fact; he might be so far educated as to be satisfied, for instance, that there was meat exposed for sale which was unfit for human food, and that bread was bad; he would be the person to bring the information to the sanitary officer, and then the two combined would form a very good executive for checking adulteration.

1513. Viscount *Goderich.*] Are you aware that the inspector of nuisances has the power of condemning bad meat under the Nuisances Removal Act of last year?—Yes, but they are not well aware of that; it has not been pointed out to them strongly enough. I really must guard myself against it being at all implied, which probably the tenor of my evidence might lead to, that there is more adulteration of food in Bermondsey or Southwark than in other parts of the Metropolis.

1514. Mr. *Kinnaird.*] Does not adulteration exist in all the districts which are chiefly inhabited by working people?—Yes. Bermondsey is like a large manufacturing town. There are large manufactories carried on there; they are not so poor as they might seem to be.

1515. Mr. *Gregson.*] Your remarks apply generally to London, do they not?—Yes.

1516. And to the provinces?—I cannot speak from my own knowledge with regard to the provinces.

1517. Mr. *Kinnaird.*] Is there any easy test which you can suggest for finding out whether port wine is adulterated or not?—A practical chemist would point out a proper and easy test in 10 minutes.

1518. Mr. *Moffatt.*] Are there any other articles of food largely adulterated in your opinion?—I think I have mentioned bread, beer, meat, mustard, arrowroot; tea, generally speaking, is pretty good.

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1519. Is coffee adulterated?—It has been enormously adulterated with chicory, and not always with chicory.

1520. Have you found coffee mixed with other ingredients?—Yes.

1521. What other ingredients?—I know an instance in which a drug-grinder was grinding some two tons of something which purported to be chicory. He complained himself, and said, "This is not chicory." Other vegetable roots seem to have been dug up and dried, and mixed at a period when there was a great demand for chicory, and sold as chicory.

1522. Is chicory usually ground by drug-grinders?—The grocers, I believe, have it ground.

1523. Do you know of your own knowledge, any instance of chicory having been ground by a drug-grinder, or is it a matter of hearsay merely?—No. When I called the person I referred to a drug-grinder, he is not by profession or trade a drug-grinder, but he has machinery on his premises, and he occasionally does it.

1524. You are aware how chicory is roasted in the solid?—Yes.

1525. Are you aware whether it is ground simultaneously with coffee or not, when it is intended to be sold with the coffee?—I am not aware of that.

1526. Mr. *Wise.*] When you said that other ingredients were used in the adulteration of coffee, did you mean to allude to parsnips or acorns, or roasted corn?—Yes.

1527. Have they been used to any extent in the metropolis?—I cannot speak to that.

1528. Other vegetables have been dried and ground up?—Yes.

1529. Mr. *Moffatt.*] Have you found any adulteration in sugar?—No.

1530. In spirits have you found any foreign matters?—I believe them to be largely adulterated; the substitution of British for foreign brandy is an acknowledged fact.

1531. Is that more prejudicial to health than foreign brandy?—Yes.

1532. For what reason?—It is a strong rank spirit.

1533. How do you define a strong rank spirit in reference to British brandy?—I cannot give an exact definition of it.

1534. Are there any other ingredients mixed with British brandy, so far as your experience goes?—No.

1535. You have not analysed or tested the relative qualities or properties of British and foreign brandies?—I have not.

1536. *Chairman.*] Can you give the Committee any information with regard to drugs?—It is the fact, that as soon as any article comes into general consumption, (I will illustrate that observation by cod-liver oil,) something else is sold for it, so that any one who has to do with drugs is compelled to be very particular as to whom he deals with. There is a general complaint I know at the hospitals, that cod-liver oil has not so good an effect as it had at first. There is scarcely the means of detecting it, but it is adulterated by the admixture of other fish oils with it.

1537. Do you believe that adulteration prevails largely in medical preparations?—I would rather use the word substitution; substituting a cheap drug of the same class for an expensive one. It is well known with respect to scammony, which is an expensive purgative, that there is a great deal of difficulty in getting pure scammony. I need not point out instances in which a person's life might depend upon the prescriptions which are written and sent to a chemist being made up with drugs of a pure quality.

1538. Mr. *Wise.*] The consequence is, that medical men are frequently disappointed in the effect produced by the medicines?—Very frequently.

1539. Mr. *Moffatt.*] Has that occurred in your own experience?—Frequently.

1540. And when you have ordered the drugs from some other chemist, the effect required could be obtained?—Very frequently; there are druggists who get 25 or 30 per cent. increased price from having the character of selling good drugs.

1541. Mr. *Peacocke.*] Are the drugs sold at Apothecaries' Hall pure?—Yes.

1542. Mr. *Moffatt.*] And those sold at many other places?—Yes.

1543. Mr. *Wise.*] Have not the Apothecaries' Company the power to visit and inspect the apothecaries of London?—Yes.

1544. Do they do so from time to time?—No; it has fallen into disuse.

1545. *Chairman.*] In speaking of these adulterations, you mean to say that there are a large number of persons who sell pure medical compounds and pure drugs, and such persons would naturally have no objection to an inspection of their articles?—They could have none.

1546. Therefore an inspection would be found beneficial?—I think the power of inspection alone would be of great use.

1547. Do you think that there is such an amount of adulteration carried on amongst the poorer dealers in drugs and medicines as would justify some such measure for preventing an existing evil?—It is generally known that the articles most used amongst the poor are very much adulterated.

1548. The richer classes, who can resort to the higher classes of retail druggists, are comparatively safe, while the poor are quite unprotected upon that point?—Yes.

1549. Mr. *Wise.*] Are you aware that in France all chemists and druggists are required to be licensed?—I believe that is the case.

1550. How would that system work in this country?—I am of opinion that every trade ought to be licensed, which might be done by a mere registration of these local municipalities; there would be no centralization and no interference with free trade; and if they were convicted of great social crimes, such as the adulteration of food or the substitution of one article for another, probably for a third offence they should be unlicensed and not allowed to carry on the trade again.

1551. Might not some mischief be prevented by the supervision of some skilled person over drugs?—Yes.

1552. Is it not the case that a great many drugs which come to this country are adulterated elsewhere?—No doubt. I believe the Chinese are very celebrated for adulteration. Some time since it was stated that some nitrate of potass was coated very cleverly with camphor, the one being an expensive article and the other cheap.

1553. Is it not notorious that opium is very much adulterated in the countries where it is made?—Yes.

1554. Mr. *Moffatt.*] Would you propose to establish inspectors at the various ports of importation of those drugs?—I think it is a matter of public and almost national importance. I am not suggesting a remedy; if you leave it entirely to an inspector, probably the man might be bribed.

1555. Assuming that he was not bribed, if you could find a pure inspector who was above taking a bribe, he must be a person well qualified to distinguish whether there was purity or impurity in the drugs?—You would have to educate that class of men.

1556. Having educated those men you set them to work, and the first article they come to we will assume to be wholesome, but with probably 12 per cent. of impurity; for example, opium, how would you deal with that?—If it were not another article substituted it would be imported or sold as such.

1557. It has been stated before this Committee that there are great variations in the opium imported into this country, varying from 12 to 2 per cent. of other matters, but still it is imported as opium; how would you deal with that article; would you refuse its introduction into this country?—No, I should think it very unwise to do so.

1558. Assuming that there was two per cent. of impurity in the article, would you take it as a pure article?—I suppose absolute purity you cannot meet with in anything.

1559. Assuming that you had inspectors, where are they to draw the line as to what they shall receive and what refuse?—It is a difficult thing, which may be met, in a great measure.

1560. *Chairman.*] Have you devoted your attention to the question of remedies?—No, I have not.

1561. Are you aware that a law exists in the United States appointing inspectors?—No.

1562. Mr. *Moffatt.*] Therefore you are not aware that that law in the United States is very ineffective?—I know that the Americans have credit for being very clever in evading laws.

1563. Mr. *Wise.*] You think, with regard to drugs, that the public ought

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to be supplied with the drugs which they ask for, and not something else?—Yes.

1564. You would make it a fraud, and subject to punishment?—Yes; I believe if the penalty were more frequent and more severe, the public would begin to look upon the adulteration of drugs more as a crime.

1565. *Chairman.*] Without saying what the machinery should be, you have no doubt that the Legislature should contrive some means of preventing these adulterations?—I have no doubt of it.

1566. Mr. *Moffatt.*] Have you given your opinions with regard to the adulterations which affect general health, or to adulterations which are prejudicial or non-prejudicial to public health?—I am speaking of the adulterations affecting public health.

1567. You confine your opinions to them?—Yes; I think manufacturers can take care of themselves pretty well. With regard to that, I am not expressing an opinion upon the necessity for legislative interference, but I believe the public require protection.

Mr. *Rufus Usher*, called in; and Examined.

Mr. *R. Usher.*

1568. *Chairman.*] YOU are a grower of English rhubarb?—Yes.

1569. Your place is at Boddicott, near Banbury?—Yes.

1570 When was English rhubarb first grown?—In 1789; it was introduced by Mr. Hayward, of Banbury; it was recognised by the Society of Arts at the time, and they awarded him a silver and gold medal.

1571. Has it been used as a medicine from that time to the present?—Yes; but not extensively till 1811, on the death of Mr. Hayward, when the plants were purchased by my father, Peter Usher.

1572. Where were those plants then grown?—At Banbury.

1573. Mr. *Kinnaird.*] Is it an expensive culture?—It is expensive, owing to the length of time it requires to remain in the ground; from four to five years.

1574. *Chairman.*] It is a different article from the ordinary garden rhubarb?—Yes; a different species, or a variety.

1575. Mr. *Wise.*] The sticks are not consumed by the public in making puddings and tarts?—Not now; because it has been found when pulled for such consumption to rob the root of its medicinal properties.

1576. Are the sticks of the same character?—Smaller.

1577. *Chairman.*] Will you be good enough to favour the Committee with any evidence which you may possess as to the medical effect of English rhubarb?—I will give, in the first instance, the opinion of Dr. Pereira, extracted from his Materia Medica; he was a very eminent man: "For several years past English rhubarb has been exclusively employed at the London Hospital, and no complaints have been made respecting its operation." "From experiments made by Dr. Parry at the Bath Hospital, it appears that the purgative qualities of English rhubarb are scarcely so strong as those of the Russian and Chinese varieties, but the difference is not great." "All the different commercial sorts of rhubarb contain the same constituents, but in different proportions; hence the differential characteristics are founded on relative or comparative differences, not on absolute ones." "English rhubarb contains a smaller quantity of oxalate of lime, and a larger quantity of starch." "In some specimens of English rhubarb I have met with crystals of oxalate of lime in as great abundance as in foreign rhubarb." "Some specimens of Russian rhubarb contain so much starch that they react on iodine like those of English rhubarb."

1578. I will not ask you to go through the evidence of other gentlemen who have given a like opinion; will you enumerate the names of any three or four principal ones, merely to show that they concur in the main with Dr. Pereira's testimony?—The testimonials which I wish to place before the Committee are very short. I have received this letter from Dr. Tustin, who is the dispenser at the London Hospital, and acted with Dr. Pereira. The letter is dated "London Hospital, February 26th, 1856. My dear Sir,—I was just about to write to you when your letter arrived. After considering the matter over, I do not believe that any statement I might be able to make before the Committee

of

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of the House of Commons would avail you much. I should not feel justified in making any statement as to the composition of the various rhubarbs you have supplied us with; that would be the peculiar province of Dr. Letheby, the analytical chemist of the hospital. I can, however, state that some years ago I had the honour of conducting a series of experiments for my friend Dr. Pereira, in order to ascertain the purgative qualities of English rhubarb, and we then came to the conclusion that it was about two-thirds the strength of the best rhubarb that could be procured. Since then, and lately, I have had ample opportunity of coming to the same conclusion. I have used nothing but English rhubarb in this hospital for these 13 years, and have paid from 36 *s.* to 50 *s.* for it. You are at liberty to make any use of this letter you think proper, and I shall be happy to make the statements therein contained before the Committee of the House of Commons, if it be deemed necessary, and any assistance I can afford you in the matter I shall be happy to give. I am, dear Sir, yours truly, *T. H. Tustin*, Dispenser, London Hospital." I have also received a letter from Mr. Redwood, dated "March 3d, 1856. Dear Sir,—I have examined the samples of English rhubarb which you were good enough to send me, and have compared them with the samples in our museum, of which we have several that were obtained when the late Dr. Pereira was engaged in the investigation of English rhubarb. The specimen I have just received from you is better than any I had previously seen, and in regard to those characters by which the quality of rhubarb is usually judged of, is but little inferior to good Indian or Russian rhubarb. I am glad to find evidence in these three samples of improvement in the production of indigenous medicinal rhubarb, from which it may be expected that the produce of our own soil will ultimately compete in quality, as well as price, with that for which we are now dependent upon foreign nations. Although the English rhubarb hitherto produced appears from the evidence of medical men who have tried it to be less powerful than the best foreign rhubarb, yet it certainly is better than much of the inferior foreign which is often imported, and if it should obtain a more extensive trial by medical men a stimulus would thus be given to further improvements in the cultivation of the plant, and the preparation of the root for medicinal use. Yours truly, *T. Redwood.*" I have also an extract from Dr. Thompson's London Dispensatory, 1837, which is a great authority I believe. After a description of the plant rheum palmatum, he says, "This plant has been generally believed to be the species which yields the foreign rhubarb, and under this belief a very excellent and correct description of it was given by Dr. Hope, Professor of Botany at Edinburgh, in the Philosophical Transactions for 1765. He had raised it from seed sent to him by Dr. Mounsey, from Petersburg, two years before, and found that the root possessed the medicinal qualities of the best foreign rhubarb. Since that period many laudable attempts have been made to introduce the cultivation of rhubarb into this country in sufficient quantity to supply our domestic consumption of this valuable drug, but although many individuals have reared large quantities, and some of it has been extremely good, yet so powerful is prejudice that very little of it can be sold, and the efforts therefore of the cultivators have of late very much relaxed."

1579. It appears from the testimony of those gentlemen that English rhubarb is a valuable medicament?—Yes.

1580. Can you state to the Committee, of your own knowledge, any particulars as to the difference between English rhubarb and foreign rhubarb?—Not from my practical experience.

1581. What is the difference in the price of English rhubarb as compared with foreign rhubarb?—The price fluctuates very considerably; but the price of English is measured by the price of foreign; it rises in a corresponding ratio with foreign.

1582. What is the price of the best English rhubarb, and what is the price of the best foreign rhubarb?—The price of the best English rhubarb is 2 *s.* per pound, and the price of foreign, for 1855, was 3 *s.* 3 *d.* to 7 *s.*

1583. Is there any English rhubarb sold at a lower price?—As low as 4 *d.*

1584. Mr. *Sheridan.*] For medicine?—For medicine. I should be glad to refer to the general condition and quality of a large proportion of foreign rhubarb, as it appears necessary to erect a standard by which to judge of the comparative

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merits of English rhubarb. I have the prices here for a series of years, from the "Commercial Reporter Price Current," Office, Mincing-lane. It may not be generally known that foreign rhubarb was sold at ruinous prices, owing to its defective quality. "In 1846, there was a large supply of very inferior and bastard kind of rhubarb, which was sold as follows: old and bastard, at ½ *d.* to 1½ *d.*; old brown and rotten, 1 *d.* to 4 *d.*; prices for better sorts were 8 *d.* to 1 *s.* 9 *d.*; 1847, 7 *d.* to 3 *s.*, duty free; rotten and damaged, 3 *d.* to 5 *d.*; brown, old and perished, 1 *d.* to 6 *d.* Notwithstanding the bad quality in these two years the market was cleared by the wholesale druggists."

1585. Mr. *Kinnaird.*] Do you suppose these low qualities stated there had lost their medicinal effect?—Yes, either by lapse of time, or more probably by not being properly cured.

1586. They had so done?—Yes; admitting the fact, which Dr. Pereira and other individuals, highly qualified, have stated that English rhubarb is equal to the best foreign by two-thirds, it becomes a question whether, including the worst and the best foreign rhubarb, English has not a greater uniformity of character, and is nearly equal in strength.

1587. *Chairman.*] Without going into the question of the relative merits of the two, the point I wish to put to you is this; if it be represented to the Committee that English rhubarb is sold as an adulterating article, and is of a very inferior quality to foreign, that is a mistake, for medical men attribute very important medical qualities to English rhubarb, and it is consumed in some important public establishments, and is held by very high medical testimony to be exceedingly useful as to medicine?—That is the fact; I think Dr. Pereira's evidence will be almost sufficient to prove that. The objections I have to Mr. Warrington's evidence, and Mr. Herring's, I have noted here, if the Committee would allow me to read them. My objections to Mr. Warrington's evidence are these, that in setting up the prices of foreign and English rhubarb as a test of their intrinsic value, he has taken the maximum price of foreign and the minimum price of English; and has also made a still greater apparent contrast by taking the wholesale price of one and the retail price of the other. If price is to be received as a proof of the intrinsic qualities of these articles, much will depend on the correction of these errors. Mr. Warrington quoted 11 *s.* 6 *d.* per pound as the price of the best Russian, and 4 *d.* per pound as the price of English. In the year 1855 the wholesale price of foreign rhubarb, as entered at the "Price Current" Office, was from 3 *s.* 3 *d.* to 7 *s.* per pound, and the prices of English ranged from 4 *d.* to 2 *s.* per pound. This, however, is a greater disparity in price than usual, for it sometimes happens that the minimum price of foreign is below that of English. Mr. Herring stated as follows: "If rhubarb were sold at 8 *s.* per pound in the lump, but when powdered it could be had for 4 *s.*, the public must know there was an adulteration, or it could not be sold at so low a price." In reply to this statement, I believe if the public were informed that the price and quality of foreign rhubarb vary as widely as any other article of commerce, it will not be difficult to discover how this could take place without an act of adulteration. It would only be necessary to use an inferior with a superior sample of the same article. Mr. Herring quotes English rhubarb at 40 *s.* per cwt.; I have recent entries of English rhubarb at upwards of ten guineas per cwt. Then as to the wholesale charge made by Mr. Herring on the character of English rhubarb, namely, "that it produces no good effect whatever," I most confidently, in reply, submit to this Committee the opinion of that most eminent physician Dr. Pereira, and of the other highly qualified individuals whose testimonials I have produced on this occasion.

1588. Mr. *Wise.*] When did Dr. Pereira give that opinion?—During the time he was assistant physician to the London Hospital.

1589. During what year?—I cannot say.

1590. Was that some years ago?—Some few years ago.

1591. *Chairman.*] The London Hospital continues to use the English rhubarb?—Yes, it does.

1592. Up to the last Dr. Pereira adhered to that opinion, and his practice at the London Hospital is continued by his sanction?—It is English rhubarb that has been used exclusively at the London Hospital for 13 years, by the express sanction of Dr. Pereira; it was introduced, I believe, during the time he was their assistant physician.

1593. Mr.

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1593. Mr. *Wise.*] Is the consumption of English rhubarb increasing? — Gradually.

1594. Mr. *Kinnaird.*] Are you the only grower in the neighbourhood of Banbury?—I know of but one other grower; I believe there is no other European rhubarb produced but by myself and another person, who also resides near Banbury.

1595. Is your soil particularly suited, or is it capable of being grown as in other parts of the country?—The soil is particularly suited for its cultivation.

1596. *Chairman.*] You have been careful in the selection of your plants?—There has never been any change since Mr. Hayward introduced it.

1597. Mr. *Sheridan.*] Is any of this English rhubarb sold for foreign rhubarb?—I am not aware; I know many houses where English rhubarb is sold as English rhubarb.

Mr. *Richard Gay*, called in; and Examined.

Mr. *R. Gay.*

1598. *Chairman.*] I BELIEVE you are the Superintendent of the Mustard Department in Her Majesty's Victualling Yard at Deptford?—Yes.

1599. How long have you been in that situation?—About 18 months; I have been there since the erection of the machinery.

1600. What was your occupation previously to entering upon the service of the Victualling Yard?—I was a mustard and chicory manufacturer, and drug and spice grinder.

1601. Were you a master or journeyman?—I have been both; I was a master manufacturer for myself about seven years, until my place was burnt down; I have partly had the contract with the Government for mustard, and I suggested to the authorities the propriety of erecting machinery; I offered my services and was accepted.

1602. Why did the Government establish a mustard manufactory?—In consequence of the impurity of the mustard, as well as other things.

1603. They found a difficulty in purchasing pure mustard?—They found it almost impossible to do so.

1604. Will you now be good enough to state to the Committee your experience as to the existence or non-existence of adulteration in the various leading articles which came under your own notice, when you were in trade as a drug-grinder?—I think it is almost impossible to procure pure mustard. I have some samples of pure mustard with me. I do not know anything more easy of detection than adulterated mustard; but still it is almost impossible to obtain it pure. I believe it has been tried. I know I have tried it myself, and a gentleman connected with me spent a great deal of money to introduce the genuine article, but the brown mustard flour, after being mixed about 24 hours, becomes black, and people do not like to see it; they like to see the mustard of a nice bright yellow appearance, and to keep so for two or three days after it is mixed; they think it is not mustard when it turns black, whereas in fact it is.

1605. Therefore the adulteration is intended to meet the public taste as to colour?—As far as colour is concerned; I think, generally speaking, it is done to cheapen the article and to get a greater profit. Mustard seed is very dear. Brown mustard seed is worth from 20 *s.* to 25 *s.* a bushel; it will only produce 25 lbs. of flour to the bushel, and there is a great deal of mustard selling at 4 *d.* a pound.

1606. Mr. *Sheridan.*] Does this mustard, after it has become discoloured, lose its pungency?—No, not for some days.

1607. *Chairman.*] What are the articles used for the adulteration of mustard?—The colouring matter is invariably turmeric. I believe that the bi-chromate of potass has been used. I have been so informed, but I never used it, and never saw any used; but turmeric is the thing generally used.

1608. In large quantities?—No, turmeric is not used in large quantities; about 8 lbs of turmeric to about 280 lbs. of flour.

1609. Mustard flour?—No.

1610. What was the adulteration of mustard, as practised in the trade, of your own knowledge?—I believe very few scruple to use wheaten flour, turmeric, and cayenne pepper; the adulterate I used was flour, turmeric, cayenne pepper, and ginger.

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1611. What proportions did those bear to the genuine mustard?—For the best mustard about 25 per cent.; for the commonest nearly cent. per cent.

1612. Mr. *Sheridan.*] Was the cayenne pepper pure which you used?—Yes, we ground it ourselves.

1613. Mr. *Gregson.*] Is turmeric in any way prejudicial?—I do not think it is; I never heard that it was; but farina is also used, and potato starch is used to a very great extent; and now, I am sorry to say, what one of the witnesses called terra alba, or plaster of Paris. I have had some samples in my office in the mustard department, since I have been in my present situation, from which I have extracted five ounces of gypsum in 1 lb.; from another sample I got five ounces of rice and wheaten flour; and from another I got about six ounces of wheaten flour. Those are the mustards which have been taken in contract.

1614. *Chairman.*] Are you speaking of mustards which have been sent in by contractors to the Government?—I should suppose so, inasmuch as they have been returned as unfit for the service, and I have analysed them.

1615. They have been sent from on board ship?—They have been returned from various ships.

1616. Mr. *Sheridan.*] In the case of the adulteration of five ounces of gypsum to the pound, what was the amount of the contract?—I do not know; it was before I came there.

1617. Mr. *Kinnaird.*] As I understand you, the worst sample of adulteration was five ounces of gypsum in the pound of mustard?—That was the worst sample that has come under my notice since I have been there; I have seen worse samples than that; I have seen more than 50 per cent. of gypsum in mustard.

1618. *Chairman.*] Is it possible that any of these samples may represent mustard purchased for the ships on foreign stations?—I think not, because they were in the Government packages; some of them bore the names of the contractors. Of course I do not wish to give any names.

1619. Mr. *Moffatt.*] You state that you found in some of the samples 50 per cent.?—The case of five ounces of gypsum to the pound was the worst sample that I have found since I have been in my present situation; but previously to that time I have found samples of mustard not sent in to the Government bearing 50 per cent. of adulteration.

1620. Mr. *Wise.*] Were the parties ascertained?—No. If it had been ascertained, the man would have been severely fined; I never said who it was; I was asked to do so, but I did not do it.

1621. If persons employed by the Government have facts made known to them, that things supplied are adulterated, is it not the duty of those parties to communicate those facts to the Government?—I should say it was. This mustard had been in store three or four years, and sent away; it had been sent to the Isle of Ascension, and had come back. The remedy is now procured, we manufacture our own.

1622. The Government found it necessary to do so?—Yes; I believe that is why they erected the mustard mills.

1623. Have you any other charge besides mustard?—I have not at present; I expected before now we should have been manufacturing vinegar. (*The Witness produced a sample of pure mustard.*)

1624. Mr. *Sheridan.*] Is the mustard issued to the Royal Navy perfectly pure?—Yes.

1625. Will its pungency be lost after a time?—If it were to remain in paper it would. We put it in tin canisters hermetically sealed. I will guarantee that it will keep good for any time. There is a test of adulteration in mustard by which every householder, in one instant, can detect adulterated mustard.

1626. Mr. *Wise.*] What is that test called?—Ammonia.

1627. What quantity of ammonia to what quantity of mustard?—A very small quantity will be sufficient, and it turns the adulterated mustard red.

1628. Mr. *Kinnaird.*] Has it any effect upon real mustard?—Ammonia turns turmeric red. We never expect to find turmeric in pure mustard. If turmeric is put into mustard it is to give colour to the adulterate. If we detect turmeric in mustard suspicion says there is something else, and then we have to try other means to detect what that is. I am not an analytical chemist, but I know enough of my own trade to discover anything of that sort.

1629. Mr.

1629. Mr. *Wise.*] If there be turmeric there is generally flour?—Yes. That is a parcel of stuff weighing five ounces which I took out of one pound. I conceive it to be rice flour (*producing the same*).

1630. Mr. *Kinnaird.*] You have extracted the mustard, and this is the residue?—Yes. There is no question about there being gypsum in it.

1631. *Chairman.*] Are the Committee to understand you to say that there were five ounces of gypsum, or that there were five ounces of some compound of which gypsum formed a part?—I did not sufficiently analyse it to detect it, but I concluded the whole of it was gypsum. I believe that mixture which I have now produced to be rice flour. I have samples of mustard upon which I will show the Committee the effect of the test. You will see that the ammonia will have no effect whatever upon pure mustard. I wish this fact to be known, because it is a most easy test (*pouring some ammonia upon a sample of pure mustard*). If I pour some ammonia upon this adulterated sample, the Committee will see that it will turn red instantly. This sample would contain about six ounces to the pound of adulteration. I should say the greater portion of it is gypsum, there is no question about that. A great many people will prefer the adulterated mixture to mine because it looks better.

1632. Is not French mustard rather dark?—French mustard is rather dark.

1633. Mr. *Kinnaird.*] Do you believe good mustard to be a wholesome thing?—I believe it is wholesome. Mustard is a very curious thing; there is as much essential oil in the refuse of the mustard as there is in the mustard flour. I believe it is almost known only to myself; lately I have discovered the fact by getting the essential oil and grinding it with gypsum and turmeric upon the edge stones. I defy any one to tell it from the finest mustard that can be made.

1634. *Chairman.*] You cannot tell it from the flavour?—No. If you were to put a little of this essential oil in water (except that it is more glutinous in water) and mix it with any tasteless farina, and if you were to shut your eyes and taste some you would not know it from the finest mustard.

1635. Mr. *Kinnaird.*] Has it all the properties of mustard?—Yes. I was glad to hear the medical gentleman who was examined express his opinion that it could be procured; the mustard-makers say that it cannot be procured.

1636. How did you get that essential oil?—After many years' trial at it I succeeded in bringing it to perfection from the refuse of brown mustard.

1637. Mr. *Sheridan.*] Is not that a discovery which is likely to lead to additional adulteration?—I do not know that it will.

1638. *Chairman.*] Did you say that the essential oil of mustard would produce, if mixed with flour in the way you state, a blister equivalent to that produced by pure mustard?—Yes. I believe there are a great many people who adulterate in self-defence, and who would be very glad if something could be done to prevent it. I have heard it suggested to-day that some inspectors should be appointed to entirely put a stop to it. I believe many honest tradesmen would be glad to have done with adulteration, but in self-defence they must do it.

1639. Mr. *Wise.*] You think the honest tradesman as well as the public requires to be protected?—I know it from experience.

1640. *Chairman.*] Is there any other article the adulteration of which you can speak to from your own knowledge?—I have heard something about chicory being adulterated. When chicory was worth about 30 *l.* a ton in the raw state, and 20 *l.* duty upon it, then it was more worth the while of manufacturers to adulterate. Now English chicory can be bought for about 10 *l.* a ton, there is very little adulteration, with the exception of Venetian red and treacle, and that is done to give it a brighter colour, more than for the purpose of increasing the weight, though it does increase the weight, and I believe it is very injurious to the article. I remember one year when chicory was worth 21 *l.* a ton, manufacturing 700 tons of carrots into chicory. They were grown by one gentleman in Surrey, and supplied to the house where I was, and 350 tons of parsnips.

1641. All that was sold for chicory?—It was used to adulterate and cheapen the chicory.

1642. Mr. *Sheridan.*] What did you pay for the parsnips?—Twenty shillings a ton; they cost us 20 *l.* a ton cutting and drying. When the white carrots

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were cut up, they looked like chicory; the chicory root is very much like a white carrot.—(*The Witness produced a sample of chicory.*)

1643. Mr. *Kinnaird.*] Is there any other article of food in the Victualling Department of Deptford which the Government have found grossly adulterated?—I have heard them complain, but they have some very clever gentlemen with instruments to detect those things. They have some serious thoughts of manufacturing vinegar. There are some adulterations which I believe it utterly impossible to detect. I could mention many instances of adulterations of drugs, spices, and mustard, that no analytical chemist could detect even with the microscope; he could not detect charlock seed mixed with mustard seed. When mustard seed is worth 20*s.* a bushel, and charlock about 6 *s.* or 8 *s.* a bushel, it is worth buying. When mustard is worth about 7 *s.* or 8 *s.*, charlock is not worth buying. When they are mixed, no man can tell whether it is mustard or charlock flour.

1644. Mr. *Sheridan.*] What proportion of carrots did you put into the chicory?—From 25 to 75 per cent.; just the same with rye; rye is used to a very great extent in chicory, from 25 to 75 per cent.

1645. Mr. *Kinnaird.*] Is there any deleterious effect produced by mixing the charlock seed with mustard?—I am not aware.

1646. Though it is a less good article, there is no harm in it so far as you know, except that it is not mustard, and consequently a fraud upon the buyer?—It is a fraud upon the pocket; it is a fraudulent adulteration. I call it the same with regard to some kinds of grain; I was employed a long time in what is called a grist mill, and we split upon the average something like 60 or 70 quarters of beans a day. Egyptian beans contain a great deal of dirt; if a man sent us 100 stone of Egyptian beans, when we washed the dirt out, they would be reduced 5 stone, leaving 95. We asked the person who sent them "How much do you expect to be returned out of the 100 stone?" If he said he wanted 110, there being 5 stone lost in dirt, there must be 15 stone more sent to him than he actually sent to the mill, though it is not injurious to health, because it is 15 stone weight of water.

1647. You added the weight by soaking the beans in water?—Yes; we were compelled to do it; he sent so many hundred weight to be split, and told us he wanted so many hundred weight back; that is done by what is called in the trade "washing," with a view to wash the dirt out.

1648. Mr. *Sheridan.*] Have you had drugs also to grind in the same way?—Yes.

1649. How long ago was that?—I think it is about three years since my place was burnt down.

1650. What kind of proportion did the person who sent the drugs to you to be ground require back?—It depended upon the parties. Take the case of rhubarb; whatever may be said about English rhubarb being sold to the public as English rhubarb, it is mostly sold under the name of Turkey rhubarb, there is no question about that; I have had 5 cwt. of rhubarb sent to be ground, perhaps 2 cwt. would be Turkey, and 3 cwt. English rhubarb.

1651. *Chairman.*] In the ground state?—Yes.

1652. Mr. *Sheridan.*] Supposing a hundred weight of Turkey rhubarb were sent to be ground, would a hundred weight be returned?—No.

1653. Who suffered the loss?—The proprietor; perhaps he would make it up with inferior rhubarb.

1654. *Chairman.*] There was no attempt to supply the waste by any other material?—Yes. I have seen that done by satinwood sawdust. I have in my mind a case in which two hundred weight of satinwood sawdust were ground up with rhubarb, packed in flint bottles, and sent abroad.

1655. Mr. *Sheridan.*] Do you mean to say that that is the custom of the trade?—I do not say that it is the custom of the trade. I have ground but few things genuine, as far as my experience has gone.

1656. Mr. *Kinnaird.*] How long were you in business?—I was 30 years a mustard, chicory, drug, and spice grinder.

1657. During that time you very seldom sent forth a pure article?—No.

1658. Can you say whether adulteration has been rather on the increase during the last few years you were in business?—I am sure it has; new things have been found out, which years ago we knew nothing of, to adulterate with.

1659. Mr. *Sheridan.*] Had you any book?—I had a book till my place was burnt

burnt down, which gave the detail of every transaction from the time I went into business. I made no scruple to show it. I have done as much in the way of adulteration as any man in the trade, and I have done more than almost any other man to expose it. I have done it in defiance of my employers, with a view to crush it; and I have felt exceedingly glad to have an opportunity of giving it a severe blow. I believe many honest men will thank any one who will put an end to it.

1660. *Chairman.*] Your belief is that in many instances adulteration is practised, not from a wish on the part of the manufacturer to deceive the public, but because he is compelled to do so by the competition of dishonest traders, who will adulterate?—Yes. I was in business with a gentleman who was a member of the Society of Friends, and he was very sensitive upon the subject of adulteration; he said to me, "Friend Gay, we are in the mustard trade, cannot you get me mustard that is pure?" I said, "I have tried it often; it will cost a good deal of money, and we may fail." He advanced me 300*l.*, and I laid it out in pots. I went out myself with the pure mustard; I took my tests with me, and showed to the grocers that it was a superior article. I satisfied them, and I sold the pots by grosses, and I thought I had found a thing that would carry out our views; in three weeks, when the people began to mix up the mustard, because it was pure, it turned black, and they said, "Oh, we do not like it, it is black;" and it came back upon us, and was likely to be a very ruinous thing. I should think not less than 400 were returned on our hands all at once; my partner said, "You had better destroy the pots;" but I did not like to destroy the pots, so I turned the mustard out and put in our common mustard, which we made for the trade, and it answered very well.

1661. In point of fact, the public insisted upon having the adulterated article?—They did not believe that my genuine article was genuine; there are many things in this country of which the true flavour is lost.

1662. Can you inform the Committee of the adulterations in any other article?—I have heard much said about vinegar, and I have had a good deal of experience about vinegar. To show how wide many scientific men are in analyzing, I never heard yet that corrosive sublimate was discovered in any sample of vinegar; sulphuric acid and D. W., or distilled water, have been mentioned. I have heard it said that arsenic has been found, but I do not believe it. Corrosive sublimate has been used for years and years in some houses, and not a cask has gone out without a certain proportion of corrosive sublimate.

1663. Mr. *Kinnaird.*] What proportion of D. W. is used?—That depends upon the price of the vinegar.

1664. *Chairman.*] Do you believe that corrosive sublimate was mixed with the vinegar in injurious proportions?—I do. It was done to counteract the flavour, the roughness of the sulphuric acid; it was not done to give strength to the vinegar; when the D. W. and O. V. have been used the corrosive sublimate is put in to give it a fulness again in the mouth.

1665. *Chairman.*] Are those technical expressions in the trade, O. V. for oil of vitriol, and D. W. for distilled water?—Quite so; corrosive sublimate is called "The doctor."

1666. Mr. *Sheridan.*] The term O. V. would be applied not in your trade only, but in all trades where sulphuric acid is used?—I suppose it would.

1667. Mr. *Moffatt.*] As a drug grinder were you ever called upon to introduce any other substance into a drug before you sent it home?—Yes; sometimes the adulterate has been sent to me to mix, and sometimes they have sent to me to say, "Put in so-and-so, and charge for it."

1668. *Chairman.*] Did they go by any other name?—No; I do not know that they did.

1669. Mr. *Moffatt.*] Were those instructions applicable to a great variety of drugs?—To rhubarb, jalap, and cocculus indicus; I have ground many cwts. of cocculus indicus.

1670. What is it used for?—I do not know; I suspect to go into the poor man's drink.

1671. You do not know any manufacture to which it is applied?—No.

1672. For whom did you grind cocculus indicus?—For druggists.

1673. Used you to grind for wholesale druggists?—Yes.

1674. Do you mean to say that it was a general instruction you had from those

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those houses to mix other ingredients with the drugs?—I cannot say that I had one customer on my book but what have been compelled to mix more or less; some things they would not have touched, let the consequences be what they would.

1675. Still your experience as a drug grinder leads you to say that it is the prevalent practice with the wholesale druggists to send two substances to be mixed together, to be sold as one article?—I have found it so.

1676. And you have worked for a great number of respectable wholesale druggists?—I have worked for a great number of respectable wholesale druggists in the country, where my mills were.

1677. Where were your mills?—Near Leeds.

1678. Have you had any experience with regard to drug grinding in London?—I have ground a good bit in London.

1679. Does your evidence apply also to the London druggists?—Yes; that case of the rhubarb being mixed with satin wood sawdust occurred in London.

1680. *Chairman.*] As a rule, would you say that the custom of dealers in London is of a more straightforward and honourable character than in the country?—Some of the larger dealers.

1681. Mr. *Moffatt.*] Still the majority of the wholesale druggists in London do send drugs to be ground with other substances?—I have had to do so for them.

1682. *Chairman.*] How long were you a drug grinder in the neighbourhood of London?—Something like six or seven years; I was five years in one place.

1683. Were you doing a large business at that time?—Not very large.

1684. You would not like to give an opinion upon the whole trade in London?—No.

1685. Mr. *Sheridan.*] Did those druggists who would not have recourse to the practices you have described suffer a loss from the consequences?—I think some of them were too well established to suffer much loss; I think the evidence given as to adulterated drugs applies mostly to the low neighbourhoods of London and all large towns.

1686. Mr. *Kinnaird.*] Have you had any opportunity of conversing with other drug grinders, and people in the same line of business as yourself?—Yes.

1687. Did it appear from their testimony, as far as you gathered it, that their experience tallied with yours?—Having men come from other mills to work where I was, and learning from them new modes of adulteration, convinced me that it was carried on in other places as well as where I was; men coming from one mill to another will talk; they would say that their practice was to use such and such things or qualities.

1688. Mr. *Wise.*] From time to time, as I understand you, fresh inventions are taking place for the purpose of adulteration?—Yes. There are new things used now for adulteration that I knew nothing of years ago.

1689. Can you give the Committee one or two instances of novelties in the art of adulteration?—Yes. I never knew till within the last four or five years that bone dust was used in white pepper; it is called ivory dust. I never knew anything but rice used. I have had as much as five cwt. of ivory dust sent me at a time, and was fined 25 *l.* for having bad pepper found on my premises.

1690. Mr. *Kinnaird.*] There is some law against the adulteration of pepper?—Certainly; and all articles paying duty to the revenue.

1691. Mr. *Wise.*] Can you state any other cases?—I think I can. For the adulteration of turmeric, I had sent me something called royal yellow. Being a colourman, I knew it was a composition of chrome yellow reduced with Paris white, or something of that sort; that was mixed with turmeric. It could very easily be detected if the turmeric was used by dyers.

1622. I suppose it is cheaper?—Much cheaper.

1693. Mr. *Kinnaird.*] Do you think the existing law is an effective check in many instances?—It used to put them sometimes in fear. Many a one who would buy an adulterate for pepper under the name of P. D., when they found the Excise getting a little alive to it, would put it out of their houses.

1694. What is P. D.?—I suppose it would mean pepper dust; it is called P. D. in the trade. It is manufactured from rape or linseed cake, mustard dross,

dross, Cayenne pepper; the pepper dust is an adulterating article, well known under the name of P. D.

1695. Mr. *Wise.*] What do you consider the article most in use which is principally adulterated?—I should say mustard, vinegar, and pepper are adulterated as much as anything. Chicory used to be adulterated, but it is now worth only 10 *l.* a ton. Those are articles extensively tampered with. Rhubarb, as I stated before, is very extensively adulterated with English rhubarb.

1696. Is it ever sold as English rhubarb in chemists' shops?—It never came to me to be marked; it was always marked "Fine Turkey Rhubarb."

1697. Do you think if you wanted English rhubarb, and went into a chemist's shop and asked for it by that name, he would supply you with it?—I think if I went to a white lead man and asked him for Dutch lead, he would tell me he knew nothing about it.

1698. *Chairman.*] Is there any other article which you can mention to the Committee?—I believe many articles of confectionery are adulterated; I think carraway comfits are very extensively adulterated, and also many of the peppermint lozenges. I believe the basis of both those and coriander and almond comfits are flour; after the seeds are put into the pan, a little syrup is thrown over them, and that is dusted over with either flour or whiting, or plaster of Paris; a pretty strong coat is put upon them in this way, and then they are finished with a stronger and better syrup. They are adulterated in that way. The colouring matter is sometimes red lead or vermillion, lake liquor, cochineal, gamboge, and chrome yellow.

1699. Some of those are perfectly innocuous, are they not?—Some of them are; cochineal and lake liquor; I do not think there is much harm in lake liquor. Cochineal is an insect, and I do not think there is much harm in it; I believe some of the colouring matters are very injurious.

1700. Do you know anything about Shield's green?—I never knew that it was used in confectionery till I heard the evidence given the other day; I rather doubted it, knowing it to be such a deadly poison. With respect to the article of milk, I know that milk is very largely adulterated, not so much with chalk, I believe, as with other matters; chalk is too easily detected; boiled white carrots are used. The water will make a very excellent substitute to mix up with milk, and the residue forms very good food for the cows.

1701. Mr. *Moffatt.*] Is a decoction of white carrots prejudicial to health?—I do not think the term adulteration should be confined to everything which is injurious to health, if the pocket is injured by it.

1702. If it is sold at a less price, is the buyer's pocket injured?—I should say so; I think they take pretty good care to make a better profit out of it.

1703. *Chairman.*] Whether the article is sold at a less price or not, is it a fair thing for a man to sell an article under one name which it has no right to bear; in fact, is it not a fraud?—It is; that is the case with many scores of articles that are sold.

1704. Mr. *Kinnaird.*] What effect is produced by mixing this decoction with white carrots?—It gives a fulness and sweetness to the milk.

1705. What is the easiest way of detecting it?—Let it stand for a day or two and it will have a nasty smell.

1706. Mr. *Moffatt.*] You have been asked the question, whether it is not a fraud if any article is sold by a vendor for one article when he knows it to be another article, to which you replied "Yes." Assuming the case of milk, if there is a gallon of this mixture sold as milk, and there is a quarter of a pint of parsnip decoction in it, and the rest of the gallon is milk, do you consider that a fraud?—Yes, I consider that is a fraud, unless the party were to sell it for what it was.

1707. Do you believe that nine out of ten of the articles sold in this country are sold perfectly pure without any admixture whatever?—Nine out of ten is a very great number to take. I really should say that seven out of ten of all articles are adulterated, more or less, either with a view to increase the profit or with a view to make them appear better than they are.

1708. Are you prepared to state to this Committee what amount of the total importation of articles of food is perfectly pure when imported?—I am not prepared to say.

1709. Do you believe, as a rule, any of them are?—I have had very little to do with imported articles fit for use. I should be exceedingly jealous of any-

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thing imported in a manufactured state from abroad, knowing what I do of the propensities of people to adulterate. I have seen vinegar imported from abroad, and I know it to be adulterated.

1710. We have had evidence with regard to isinglass; would you say that it was a fraud to sell isinglass as pure if there were ten per cent. of foreign matter in it, or two per cent?—Yes. I have had a great deal to do with cutting and manufacturing isinglass. Russian isinglass is mixed with the Brazilian isinglass; still it is isinglass: one is worth 14 *s.* a pound and the other 5 *s.* or 6 *s.* If I was to take 7 lbs. of Russian isinglass and 3 lbs. of Brazilian, and if I sold it for Russian isinglass, I should be committing a fraud upon the purchaser.

1711. In the same way, sugar is stated to have been much adulterated; is it your impression that the vendor buying that sugar from the importer is guilty of fraud?—Where there is no law there is no sin; if he bought it for pure sugar he is not guilty of fraud.

1712. So in the same way, the vendor of drugs, if he bought them as pure drugs, is not guilty of fraud?—No.

1713. Mr. *Kinnaird.*] Do you believe that adulterations are made with the benevolent view of providing a cheaper article for the poor, or that it is done for the sake of obtaining a larger profit?—In some instances parties adulterate in order that they may reduce their price, to get custom by selling a cheaper article.

1714. And underselling the fair dealer?—Yes. I do not know that they would make any more profit than upon the proper article; poor people catch at a cheap thing.

1715. Mr. *Wise.*] On the whole, you think there is so much adulteration at present that the law is not sufficient to stop it?—I think there is no protection for the public.

Mercurii, 12° die Martii, 1856.

MEMBERS PRESENT:

Viscount Ebrington.	Mr. Scholefield.
Viscount Goderich.	Mr. Wise.
Mr. Moffatt.	Mr. Cowper.
Mr. Gregson.	Mr. Kinnaird.
Mr. Peacocke.	Mr. Swift.
Mr. Villiers.	

WILLIAM SCHOLEFIELD, Esq., IN THE CHAIR.

John Moore Neligan, M. D., called in, and Examined.

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1716. *Chairman.*] YOU are a Physician in Dublin?—I am.

1717. How long have you been in practice?—About 20 years.

1718. Has your attention been turned to the question of adulteration, either of articles of food or drugs?—In drugs especially, having lectured on materia medica for some years, and having also written a work on medicines including their adulterations.

1719. Will you favour the Committee with your views generally as to the existence of adulteration in drugs?—As regards drugs in Ireland, I believe they are much purer than they are in England, chiefly because we have a power of inspection in the College of Physicians. We inspect apothecaries and druggists' shops in the city of Dublin and the neighbourhood, under an Act of Parliament.

1720. Are you aware that the same power exists in this country?—Yes, but applying to the city of London only.

1721. What is the practice of the College of Physicians in carrying out this power?—On the 18th of October the College of Physicians elect annually four of

of their body as inspectors of apothecaries' shops; they are usually the four censors. These divide among themselves the north and south sides of the city of Dublin. They are associated with an apothecary attached to each two; they inspect once a year. Though the Act of Parliament directs an inspection four times a year, a single careful inspection is made once every year of all the shops on the north and south sides, and a report is made to the College of Physicians by the inspectors. Hitherto this report has been merely inserted upon our minutes, but we have received the opinion of counsel within the last week that we have the power to publish it, and it is contemplated to do so for the future. In consequence of this inspection we find there has been a very gradual and general improvement in the shops in Dublin as regards the preparation of medicines. Still there are many of them sold very impure.

1722. What is the title of the Act to which you refer?—The Act is 1 Geo. 3, c. 14, "An Act for the Prevention of Frauds and Abuses in the vending, preparing, and administering Drugs and Medicines." It is an Irish Act.

1723. Is there any specified time for making this examination?—There is not; it is made as it suits the convenience of the inspectors.

1724. Will you state generally what has been the result of that inspection; you say still there is a considerable amount of adulteration existing?—The custom generally was, to classify the shops on each side of the city into three, four, or five lists, Nos. 1, 2, 3, and so on, according to the qualities, the fitting up of the shops, and the attendance of the apothecaries' apprentices. Last year two of the inspectors on the south side took a great deal more pains, and went very carefully into the subject, and in the report which their College of Physicians authorised me to show to the Committee, they have gone with considerable care into an account of the state of the various shops.

1725. Can you give the Committee any statement as the result of that report; is there any synopsis of the report?—The report is very short in itself. It states that in several instances there has been a decided improvement over the result of the previous year's inspection. I find altogether in the first class, on the north side of the city, there are twelve shops placed.

1726. The first class, I presume, includes those who sell the most pure goods?—Yes; and where the attendance is very good. The second class contains ten shops. They possess a good supply of drugs, and are apparently well attended to, but yet are deficient in some respects. No. 3, which contains seven shops, comprises those which were deficient in drugs, badly attended, or in a dirty condition. No. 4, bad in every respect, contains but three shops. The south side contains more than eighty apothecaries' shops. The north side contains only thirty-two.

1727. Viscount *Ebrington.*] The goodness or badness appears to have been less determined in this classification by the purity or impurity of the drugs sold than by the general state of the shops as to cleanliness, and care and goodness of attendance?—It includes both. The usual custom is for the inspectors to call upon the apothecary or his assistant to show them four or five preparations; they examine them, and if they find these four or five are pure, they are satisfied. If they find them bad, they inspect others, and from the general result they draw their conclusions.

1728. *Chairman.*] Are any means taken besides those you have mentioned for punishing any persons who are in the habit of selling adulterated medicines?—There is the penalty, which of course is never at present enforced, of burning the drugs in front of the apothecary's shop by the beadle of the college. There is no other penalty where a drug is impure or bad; but for obstructing the the examiners the penalty is 20 *l.* The object of the Act seems to have been for the safety not only of those who prescribe medicines, but of those who consume them, and therefore it was intended, as we have imagined lately, that there should be a publication of the result, and this our counsel has told us is the case.

1729. Viscount *Ebrington.*] With the names?—Yes.

1730. *Chairman.*] Are the Committee to understand that no punishment is at present inflicted upon those persons through the instrumentality of the College of Physicians?—We have never attempted any punishment. The Act has been in fact to a certain extent a dead letter, from the want of publication hitherto. The reports have been simply entered in our books for our own satisfaction.

1731. Even considering the small amount of power which you supposed you possessed, the knowledge that you had the power of inspection you think has tended gradually to improve the quality of the drugs and medicines in chemists' shops?—Very much so, I think.

1732. Though you have inflicted no punishment?—Though we have inflicted no punishment.

1733. Viscount *Ebrington*] Not even publicity?—Not even publicity. Some of the drugs which are imported are imported impure; some of our apothecaries also purchase the compound preparations of our pharmacopœia, instead of making them themselves, and these are usually bad; such as pill masses, containing three or four different medicines, or electuaries, or extracts.

1734. Are they supplied from wholesale druggists in England to the druggists in Ireland?—Some are, though they ought to have been prepared differently; there are different pharmacopœias in the two countries, and yet some of our Irish apothecaries purchase from English druggists, who sell them a different preparation from the Irish one.

1735. *Chairman.*] Is the English preparation in conformity with the English pharmacopœia?—We suppose it to be so.

1736. Is there any difference which you can define pretty distinctly between the two pharmacopœias?—Several.

1737. Is there a greater tendency to increased strength or purity in the Irish pharmacopœia than in the English?—The difference seems rather arbitrary. The doses differ in some of our very active medicines in the two pharmacopœias.

1738. Mr. *Wise.*] With respect, for example, to the article of prussic acid; in England the strength of that is two per cent.; in Scotland it is double that amount, is it not?—Not quite double. In Ireland it is very nearly the same as the English.

1739. Therefore a very different effect might be produced by the same quantity of prussic acid administered in the two countries by medical men?—I should say not with prussic acid. That might occur with other preparations, with solutions of morphia, for example, in which the difference of strength is much greater. Prussic acid is given always in very small doses; and therefore a trifling difference in the strength is not so important.

1740. *Chairman.*] What articles have you found to be principally adulterated?—Many of the leading articles. One of them is scammony, which is a very useful and excellent purgative medicine, and which is adulterated to an enormous extent, both before importation and afterwards.

1741. With what is it adulterated before it is imported?—With chalk, usually, before it is imported, and sometimes with starch also; the chalk may be added to make it pack more easily, from being drier; but nevertheless it contains a perceptible amount of chalk; the starch is rather a fraudulent adulteration of it.

1742. What is the kind of adulteration which is practised in this country?—The same.

1743. How can you distinguish between the adulteration which takes place before importation and that which takes place in this country?—Only by getting the articles from the wholesale druggists. I obtained some years ago specimens from some of the first wholesale druggists in London. I found adulterations in the very best scammony imported; but the adulteration was simply with chalk.

1744. Those were adulterations for which the importers were not responsible?—Yes.

1745. Mr. *Wise.*] Without any adulteration, am I correct in supposing that there are inferior varieties of scammony?—Yes; the best scammony may be purchased at about 45 *s.* the pound.

1746. So that several pounds of scammony which may be worth only from 7 *s.* to 10 *s.* may be mixed with a pound of scammony varying from 35 *s.* to 48 *s.* in value?—They would scarcely take that course; they would sell the impure scammony at the very highest price. A great deal of that is due, I believe, to the custom of contracting for drugs, which our great workhouses and large dispensaries always do, so that the lowest contractor, irrespective of character, will very often get the supply of a workhouse with drugs, and will send in impure medicines.

1747. Mr. *Moffatt.*] Do the dispensaries take no means of testing the quality of the drugs which are delivered?—Not that I am aware of; the physicians of the large hospitals and dispensaries in Dublin sometimes look at them.

1748. Have you heard of their ever being rejected in consequence of inferior quality?—Yes. I have been physician to Jervis-street Hospital for several years, and I have directed the apothecary to return medicines which I believed to be badly prepared or impure.

1749. Mr. *Wise.*] So that whatever precaution the purchaser may take he has no remedy except in having an honest person to deal with?—Certainly, he has no other remedy between the public and the apothecary; but the apothecary has a remedy with the druggist. We have an Apothecaries' Hall in Ireland, somewhat the same as you have here, and there they prepare medicines themselves, and sell them always in a pure state.

1750. Viscount *Ebrington.*] Has Apothecaries' Hall in Dublin much custom?—Very large.

1751. Are the prices generally charged there higher, lower, or identical with those in the trade?—Generally a little higher.

1752. But people cheerfully pay a somewhat higher price in order to feel secure of having an unadulterated supply?—As regards the consumer of drugs, he is not affected by it; it is only the apothecary who purchases the drugs who is so, because the consumer pays the same price for a draught or a pill whether it is made with pure or impure medicines.

1753. Mr. *Moffatt.*] Is the Irish Apothecaries' Company an incorporated company?—It is, by Act of Parliament. They have the sole power of licensing. We have no chemists to compound medicines in Ireland; a chemist cannot compound medicines; no one can compound medicines or keep an open shop but a person who has undergone an examination and has been licensed by the Apothecaries' Hall of Ireland.

1754. Is a fee paid for the licence?—A very small fee.

1755. Viscount *Ebrington.*] The practice is an efficient one, is it?—It is very carefully carried out.

1756. The examination is not a merely nominal one?—It is a very careful, good examination.

1757. *Chairman.*] Can any one practise in Ireland without undergoing an examination?—No one can open an apothecary's shop without undergoing an examination. An apothecary's apprentice is compelled not only to study pharmacy, but he must study a certain amount of anatomy, chemistry, botany, materia medica, and the practice of medicine; he must attend an hospital for a year; all that he must do before he can open a shop.

1758. Is it a common practice to associate the two businesses together of chemist and apothecary, or are they generally exercised separately?—We can scarcely call an apothecary a chemist; we have chemists who sell large quantities of the ordinary drugs, Epsom salts and castor oil, and so on, but they cannot compound prescriptions. We have these, not alone in Dublin, but in the country parts of Ireland, combined with grocers' shops; but an apothecary in Dublin usually confines himself to compounding his own or physicians' and surgeons' prescriptions.

1759. You have no class in Ireland corresponding with what are called pharmaceutical chemists in this country?—No.

1760. Viscount *Ebrington.*] It is the high value set upon the purity of drugs by those carefully trained and licensed apothecaries which leads to the great custom at a somewhat higher price, which you describe as being given to the Apothecaries' Hall, in Dublin?—A great deal must be due to that. They have a large custom also, as they alone are allowed to supply the military with drugs and medicines.

1761. Mr. *Moffatt.*] As I understand you, the Apothecaries' Company in Dublin supply the wholesale druggists; is not that so?—Their functions are divided into two in fact; they have a drug shop in which they hold shares, and they also have the power of granting licences to apothecaries to open shops.

1762. Do they make up prescriptions?—They do so; my own are frequently made up there.

1763. Have they a considerably larger trade in making up prescriptions than any other apothecaries in Dublin?—I should say a smaller trade.

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1764. Viscount *Ebrington.*] They supply, as I understand, other apothecaries to a very large extent?—A very large extent.

1765. Mr. *Wise.*] Has your attention been drawn to the system pursued in France with regard to chemists and druggists?—It has.

1766. Does not it approach very nearly to the system pursued in Ireland?—There is one very essential difference. The French pharmaceutist is not a practitioner of medicine, he merely compounds prescriptions, while the Irish apothecary is educated in medicine, and prescribes.

1767. My observation applied rather to his being licensed to dispense medicines?—So far there is a similarity.

1768. Do you think it would be a public advantage if the same system were pursued in this country?—I do; a very great advantage.

1769. Would you apply the same system to the grinders of drugs?—No; I would scarcely expect them to undergo an examination; it would be so far an advantage if they were licensed, that they would be open to the inspection of the Excise officers.

1770. You think it desirable that they should be licensed, and registered, and subject to frequent inspections, with penalties and the forfeiture of licences if found guilty of adulteration?—I am scarcely competent to give an answer upon that subject.

1771. *Chairman.*] Are you of opinion that adulteration goes on in the hands of the drug-grinders?—Certainly it goes on somewhere. I will not say whether it is with the wholesale druggists after the drugs leave the drug-grinder, or before they go to the drug-grinder.

1772. You think there is a good deal of adulteration, which lies between the drug-grinder and the wholesale druggist?—Yes.

1773. But you would not like to fix it upon one or the other?—No.

1774. You stated to the Committee that the Act you quoted of George the Third gives the power to the College of Physicians to inspect and to publish the names where they find persons vending adulterated drugs, and also to punish them by burning the drugs before the door of the individual, and in extreme cases by levying a penalty?—Yes.

1775. But you are not aware that that Act has ever yet been enforced?—I am aware that it has not been enforced.

1776. Why has it not been enforced?—In the first place, carrying it into effect is a very disagreeable operation. To members of the College of Physicians it would be a very unpleasant thing to go and burn a man's drugs in front of his house. Another reason now is, that as we really have the power of publishing our reports; this we consider will be quite an effectual check.

1777. Being now advised that you have the power of publishing the names of the individuals when you find these adulterated drugs, are you aware that it is the intention of the College of Physicians to avail themselves of that power?—I have been sitting on a committee of the College for the last month on the subject, and we have come to the determination of recommending the publication, first giving notice in the public papers of our intention so to do. I happen to be one of the censors of the College this year, and we purpose to take some pains for this purpose.

1778. Do you think any advantage would arise from submitting drugs when imported to an examination in bond?—That would scarcely give any security to the consumer of the medicines or drugs.

1779. According to your own account, if those impure drugs get into the hands of the druggists they cannot be so efficient as medicines as if they were pure?—They ought to be aware of the quality and not purchase those impure drugs. We find that drugs are not only adulterated, but that they vary in price remarkably. We have good and bad rhubarb and good and bad opium, and they vary in price very much in the market.

1780. In the case of an article which the importer called opium, but which did not contain a particle of morphia, do you consider that ought to be allowed to come into the country?—Certainly not.

1781. It has been stated in evidence that such opium has been imported into the country and has been purchased?—My own impression is that opium of that description is very rarely imported. It is sometimes sold in this country after the morphia has been extracted from it; that of course is a very dishonest fraud to commit.

1782. Mr. *Moffatt.*] Assuming an article was imported under the name of opium which had 60 per cent. of morphia and 40 of some foreign substance, would you think it right to prohibit the importation of that?—It might be very useful to obtain the residue of morphia which was in it.

1783. Viscount *Goderich.*] Should not you consider it a fraud to sell it under the name of opium?—I should consider it a fraud to sell it under the name of the best opium.

1784. Mr. *Moffatt.*] Is there any opium imported which is pure morphia?—There is perfectly pure opium which contains the full quantity. The College of Physicians in Edinburgh has given tests to chemists to distinguish good from bad opium.

1785. What per centage of morphia constitutes what you term pure opium?—It varies according to the country; from 8 to 10 per cent., or even as low as 6 per cent., would be very good opium.

1786. Cannot the buyers of those goods find out what quantity of morphia they contain?—Yes.

1787. If we were to prohibit opium which did not contain the prescribed amount, we should very much lessen our supply of morphia, should we not?—That would not answer at all.

1788. *Chairman.*] Do not you think that any advantage would arise from an examination of drugs in bond?—A very slight advantage.

1789. Are you aware that the American Government examine all goods imported?—Yes.

1790. What is the result in America?—The reason they adopted that practice there was because they were in the habit of importing a large quantity of drugs made up for the American market. Blue pill was made up in this country to be taken to America; it consisted of ordinary clay mixed with Prussian blue, sand, and other substances. This went so far that the American Government interfered, and appointed inspectors of drugs; but I cannot well understand how, unless they have one in every port, they could stop the importation of impure drugs.

1791. Mr. *Cowper.*] Do you think it is easy for druggists, in purchasing their drugs wholesale, to detect at once any want of purity in them?—Yes; the druggist has the same power that any inspector possibly could have.

1792. Would not it impose trouble and labour upon him in purchasing those articles?—A glance of the eye will tell the quality in many cases; I could tell at once a good from a bad scammony; and so as to bark or opium; the druggist can tell most of the important drugs by the eye.

1793. *Chairman.*] Am I to gather from your evidence, generally, that you think the existing means at the disposal of the College of Physicians in Ireland are sufficient to check adulteration in drugs?—Certainly they are not sufficient. This Act does not refer to Dublin only, but to Ireland generally. We cannot expect the College of Physicians to go all over Ireland, and there is a clause of the Act giving authority to the chief magistrate in each country town to take to his assistance two doctors of medicine of certain universities mentioned, and with them he has power to go and inspect the various apothecaries' shops in his district. That portion of the Act was never carried into effect; it was a thankless office, there being no payment for it, and they were not inclined to undertake it. The censors of our own body did not wish to undertake the full carrying out of the Act. We are required to inspect four times a year; but the College has very limited funds at its disposal, and it must pay the inspectors. We pay each inspector ten guineas a year. With regard to the apothecaries of Ireland, there has recently occurred a lamentable case in the north of Ireland, showing the necessity for a good education. It is the case of Captain Kent, of the Lancashire Militia, who was poisoned accidentally in the town of Newry by the ignorance of an apothecary's apprentice; in fact, I am wrong in saying an apothecary's apprentice, because the master was not licensed, and he had been punished already for opening his shop without being so. He substituted, in his preparation of the medicine, aconite, for a very simple bitter which had been prescribed; that was the result of ignorance. He did not keep a copy of the prescription, and when Captain Kent's servant called and asked for the medicine, the young man who was standing behind the counter said he remembered what it was, though he had not the prescription, and he wrote in his own handwriting, which has been since obtained, "tincture of aconite," as the medicine ordered.

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1794. Do I understand you to say that this shop has been closed?—For opening the shop the owner had been prosecuted by the Apothecaries' Hall, and for a short time he had stopped selling medicines, but he commenced to sell them afterwards.

1795. Then you have no means of preventing a person selling medicines who has been convicted?—You may convict him again.

1796. You have no power of compelling the closing of shops?—No.

1797. Mr. *Moffatt.*] Have you any suggestion to make to the Committee in reference to those mistakes in giving poisons for other medicines?—The question has recently engaged the attention of the College of Physicians in Dublin very much; and at my suggestion the College has adopted rules which are to be immediately enforced. We have the power under this Act of publishing a pharmacopœia, and directing not only the weights and measures for the preparation of medicines, but even the vessels and utensils which are to be used in apothecaries' shops, obtaining for the enforcement of it a proclamation from the Lord Lieutenant and the Privy Council of Ireland. Before I left the College on Saturday last the plan proposed to be adopted was as follows: It was ordered that for the future all apothecaries and druggists do keep in their establishments medicines which are of a dangerous nature, of which we furnish them with a list, in angular bottles or vessels, and all those not contained in that list, in round bottles or vessels, so that an apothecary's boy, in going to a shelf to take down laudanum, for instance, will feel it is an angular bottle, and thus know it contains a dangerous medicine, while a round bottle may stand next to it, which he knows contains an innocent medicine. The second order is, that in dispensing medicines by physicians' prescriptions, or in selling medicines to any individual who comes into the shop to purchase, all liniments or medicines intended for external use be sold to the public in angular bottles or vessels, and those for internal use in round bottles or vessels. It has been known to occur over and over again that a nurse at night has got up and given the patient a dose of a poisonous liniment instead of an internal medicine; but even the most sleepy nurse would feel that the bottle was an angular bottle, and this would be a great security to the patient.

1798. Viscount *Ebrington*] Is there any difference as to price in the two kinds of bottles?—I have been making inquiry, and I am told there is very little difference; but at present they have been so much in the habit of using angular bottles in dispensing that there might be some difficulty at first.

1799. You think that a decidedly better arrangement than the one which is now adopted in London by various chemists of sending medicines for external application in bottles of one colour, and the medicines for internal administration in bottles of another colour?—Yes; because at night it would not be possible to distinguish the two colours.

1800. Would this arrangement entail much expense upon the retailer of drugs?—I went into some of the most respectable houses in Dublin, and they all hailed with the greatest delight the proposal; they said it would be a great safety to themselves with regard to their own apprentices.

1801. They would willingly incur the expense?—Yes. I recollect one or two said it was rather a hardship to be compelled to go to this expense; but we in the College think the safety of one human life is of much more consequence than any expense of that kind put upon the apothecary.

1802. Mr. *Peacocke.*] It is the custom in England to copy the prescription in a book. Is that so in Ireland?—It is.

1803. Was that the case in this fatal instance that you have mentioned?—No. The custom in many houses is to return the prescription to the person who leaves it at the shop. They sometimes copy it into a book, sometimes on a piece of paper, and they place it on a file, which is a very careless practice. In this case they put the prescription on a file. They searched and could not find the prescription, and then the apothecary's boy wrote out the prescription from memory.

1804. Mr. *Wise.*] Assuming you are of opinion that the article supplied should be what is required and asked for by the parties, what do you consider to be the most effective mode of preventing the adulteration of drugs or an admixture of anything foreign to the original substance?—I really cannot devise any better plan than that adopted under this Act of our own; the plan of confiscating the drugs, and the publication of the name for the second and third offence,

offence, would be a very good plan. There should be a fixed rule of payment for the physicians engaged in the inspection, and then they would be disposed to attend more carefully to it.

1805. Do not you think the principle of making the vendor more responsible and the purchaser less so, would be a desirable one to carry out. The whole burden is at present laid upon the purchaser?—There is really a difference between the case of drugs and that of food; the consumer here has no means of guarding himself, and we know between the two hands, the druggist who sells to the retail druggist and the druggist who retails to the apothecary, both of them may adulterate. The words of this Act are very strong; it says, "That the said president, censors, and fellows of the College of Physicians may have full power and authority to elect and appoint four of the fellows or members of their body to be inspectors and examiners of all laboratories, shops, ware or store houses, cellars, vaults, room or rooms, and of all other repositories, of what kind or name soever they may be, in the house or houses, or other place or places belonging to any apothecary, chemist, or druggist, or other person or persons whatsoever, who now do or hereafter shall import for sale, or buy and sell, or keep for those purposes, any drug, or simple or compound medicine, of what nature or denomination soever, which is or may be used as medicine for the health of man's body, within the city of Dublin, and ten miles circuit thereof."

1806. *Chairman.*] That includes wholesale druggists' shops and drug-grinders' establishments?—Yes. There is rather a curious exception made in the Act, "That this Act, or any part thereof, shall not be construed to extend to any merchant adventurer who shall import simple drugs or medicines for sale, and does not prepare, compound, or retail the same." So that an importer of drugs is exempted from this Act.

1807. Viscount *Ebrington.*] You consider, from your experience, that an inspection of drugs in bond, and a prohibitory law against the importation of any but the best, would not necessarily be advantageous to the supply of pure drugs in the retail trade?—Certainly not, in my opinion.

1808. Will you give your reasons for that opinion?—I may mention to the Committee that I have been editor of the "Dublin Quarterly Journal of Medical Science" for the last seven years, and it has fallen to my lot to read most of the medical journals, both Continental and American; and I find very constant complaints throughout America of the adulteration of drugs, notwithstanding they have this stringent law of inspecting in bond, which has now been in operation for some years.

1809. Mr. *Moffatt.*] Have you ever heard of any drugs being seized and destroyed at the ports of importation in consequence of their impurity?—I have read of it in America.

1810. Frequently?—I cannot say very frequently, but I have read of instances.

1811. Do you recollect in what ports this destruction took place?—New York chiefly.

1812. Any other port?—I think in Boston; I am not sure.

1813. Are you aware that this same law exists in any of the United States besides New York and Massachusets?—I am not.

1814. Viscount *Ebrington.*] Is there not another reason against the introduction of such stringency with regard to the quality of the drugs imported into this country; is not it the case that drugs of a defective quality may, under chemical operation, supply, in perfect purity, the active principles of medicine, which may be of the greatest use to the community?—Certainly.

1815. Perfectly pure morphine might be extracted from very inferior opium, though in diminished quantity?—Certainly.

1816. Mr. *Peacocke.*] Do not you think a more effectual remedy even than the one you have mentioned, would be, if a person, say upon a second conviction, were prohibited from selling the drug he had been convicted of adulterating?—The apothecary might not be able to compound a prescription unless he had this very drug in his house.

1817. *Chairman.*] Would you suspend his licence?—I think the public would very soon practically suspend his licence when they found he was supplying them with impure drugs.

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1818. In the case you just now mentioned the person keeping the shop had been prosecuted, but, nevertheless, he was employed, even by respectable people?—The mere fact of his being found guilty of infringing the Apothecaries' Act did not prove that he sold impure drugs. The man is, I believe, an Edinburgh physician who keeps this shop, and it was his son and an assistant in the shop who made the mistake.

1819. He had not been prosecuted for selling impure drugs?—No; the Apothecaries' Company have no power to prosecute any man for selling impure drugs.

1820. Viscount *Ebrington.*] In your view, it would be desirable to have some legal authority to inspect drugs in the hands of the retail dealers, and to protect the public by employing a few competent persons to do for them what the public in general is not competent to do for itself, and could only do for itself at a great increase of trouble and expense?—Certainly; that would effectually protect the public, for they do not purchase from the wholesale importer.

1821. Mr. *Peacocke.*] How would you carry that out in small country towns?—The Act of Parliament which I have laid upon the table gives the means of doing that, but it is not a very effectual one. It would be extremely easy to allow the College of Physicians to appoint a competent person in each town to inspect and report to them.

1822. Viscount *Ebrington.*] That inspector might be allowed to itinerate at unequal intervals and test a certain number of drugs, and deal with the party selling them accordingly?—You would scarcely get competent physicians to do that; they could not leave their practice.

1823. Is it indispensably requisite that a competent inspector should be a physician; might not he be a person especially qualified for the purpose, such as an analytical chemist, and be employed in doing that and nothing else?—Certainly he might. Again, there is a difficulty, for an analytical chemist must be specially educated for the purpose, and acquainted with the appearance of compound medicines. For instance, in the case of extract of colocynth or electuary of senna, it requires a well educated physician, or a qualified apothecary, to detect the purity of them.

1824. Would not it be found desirable to appoint some competent person for employment of that kind, and to fill up his whole time in the public service, trusting that experience in that particular work would give him, after a while, special skill and aptitude in the performance of it?—There is no question that one individual would have a great deal of power in that way, but the event of that person being ill must be provided against.

1825. Mr. *Peacocke.*] Do not you see great objection to a resident inspector, because he would be under the pressure of local influences?—I have often thought over that; we have never found in the College of Physicians, in Dublin, that that effect is produced; we are obliged to take an oath to do the duty impartially. In the case of insurances upon lives too, we are obliged to receive the report of a country physician as to the health of his own patient.

1826. Mr. *Cowper.*] Would not your purpose be answered by employing sub-inspectors to purchase drugs and forward them to the central Board in Dublin, which would consist of analytical chemists and persons acquainted with drugs?—Unquestionably; but that would entail additional expense.

1827. Would there be any expense beyond the carriage of parcel by railway?—The inspection in Dublin would be an additional expense; and the law might be evaded thus; a man would soon become acquainted with the character and appearance of the persons coming to purchase in that way, and he might keep a pure medicine by him to sell to them in order to be sent to Dublin.

1828. Do you see any objection to the body who now visit the shops themselves employing any trustworthy means of obtaining drugs from shops at a distance and exercising their opinion upon the article so purchased, just as if they had themselves gone to the shops?—I do not see any objection to that. It might be a good plan,

1829. Mr. *Moffatt.*] Is it your opinion, from your extensive practice in Dublin, among both the poorer and the richer classes, that there is any general adulteration of food in Dublin prejudicial to the public health?—I really do not think there is; the bread, of course, varies in quality, but it is more in quality than

than from adulteration; there is great facility for obtaining pure bread and other food in Dublin, unless a person goes to a very poor neighbourhood.

1830. You have never met with bread the constant use of which would injure the health of a person?—I have tasted bread that I should not like to continue eating for some time.

1831. From being adulterated with alum, do you mean?—Alum is usually employed.

1832. Have you ever found crystals of alum in bread?—I should think that would be impossible; the heat in baking the bread would melt the alum, and destroy the crystalline appearance.

1833. *Chairman.*] What temperature produces that effect?—Alum will freeze at a temperature of about 200 degrees.

1834. What is the heat in baking?—Very much over that, certainly.

1835. Mr. *Villiers.*] Have you had much experience as to bread in Dublin, so as to know if it is adulterated?—No.

1836. Do the prices vary?—Not much; there is no assize of bread, but one of the wholesale bakers there each week establishes a fixed price, and his price regulates the others; he does not send out his bread by bread carts, and those who do so charge a halfpenny a quartern loaf additional for sending out. His bread is usually reckoned the best bread, and he has the largest sale; he so far regulates the others. Latterly there have been two other houses established to undersell him, and they are usually a halfpenny in the quartern under his price.

1837. Does that company profess to sell pure bread?—Yes.

1838. Do those who have undersold them do the same?—They profess to do so, but I cannot say that their bread is as good as the other; it is not adulterated, but it is not made from as good flour.

1839. You have no information upon the subject of adulteration of bread?—No.

1840. Mr. *Peacocke.*] Have you analysed any other articles of food?—No; I have not turned my attention to the subject.

1841. Has your attention been called to the fact that the meat sold to the poorer classes is unfit for food?—I have seen it myself. There is a weekly inspection by the Lord Mayor and his officers; he seizes the meat, and it is confiscated.

1842. Mr. *Villiers.*] Under what power does he act?—A local Act, which constitutes a market jury, who are sworn at each quarter sessions before the Recorder to perform their duty.

1843. Has that authority existed a long time?—It has.

1844. Therefore this inspection of food would be nothing new if it were extended?—There is an inspection over nothing else, that I know, but the meat markets.

1845. That is to see that people have good food, and are not defrauded?—Not so much to see that they have good food, but to see that they have not tainted food; that the animals are not diseased.

1846. It is a recognition of the principle of protecting those who might otherwise be defrauded?—It is.

1847. Mr. *Peacocke.*] Do you think, in consequence of this local Act, the meat in Dublin is better than in other towns, especially that sold to the poorer classes?—I think the meat sold to the poorer classes is of very fair quality in Dublin; there are some exceptions.

1848. *Chairman.*] Did you say that there was very little adulteration of food in Dublin?—So far as my own experience goes. I have tested pickles and coffee once or twice; pickles are almost all brought from England, and I have occasionally detected copper, in small quantities; and I have found chicory in coffee.

1849. Generally, you think the articles of food are pure?—Generally, I think so.

1850. Then I am afraid, according to that, the druggists are about the worst class in Dublin as adulterators of articles?—I think there is more adulteration in drugs than in almost any other article; probably it is more difficult to be detected, and that is the reason.

1851. Mr. *Moffatt.*] Did you find copper in the pickles, to an extent likely to be injurious to those consuming them?—Certainly not; we constantly order copper in medicine as a good tonic.

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1852. *Chairman.*] You would not consider copper as a proper admixture with pickles, would you?—It is an accidental admixture, arising from boiling in copper vessels.

1853. Do not you think that is an objectionable mode of boiling in copper vessels?—In my own family, as regards preserves, I have not interdicted it.

1854. Mr. *Moffatt.*] Have you ever found much adulteration in milk?—The only adulteration I have found is water. In one of our hospitals we have adopted the system of the lactometer, and we generally find that the milk contains a very large quantity of water: but we were placed in rather a difficulty the other day, having advertised for a contract with reference to the supply of milk, we had only one contractor, who had supplied us for 13 years, and it was his milk that the water was in.

1855. *Chairman.*] Do you buy the cheapest article at that hospital?—No, not at all.

1856. Mr. *Moffatt.*] Is the milk which the cow yields invariably of the quality so as to come up to the test which the lactometer prescribes; does not the milk from some cows contain more watery particles than that from others?—It varies very much according to the breed of the cow.

1857. So that it may be pure milk, and yet may not come up to the test which the lactometer prescribes?—Not up to the highest test.

1858. Mr. *Villiers.*] Have you ever found other materials, such as chalk and calves' brains, in milk?—No, I never found anything but water. There is a bad habit in Dublin, as in other large towns, of keeping cows confined in close, unwholesome places, which deteriorates the quality of the milk very much.

1859. You have examined drugs, milk, pickles, and coffee, and you appear to have found them all adulterated?—Yes.

1860. From what little experience you have had, you have found them to be adulterated?—Yes.

1861. Mr. *Moffatt.*] You have not found them adulterated to any such extent as to injure the public health, have you?—Except with respect to drugs, I cannot say that I have.

1862. *Chairman.*] Do you think, with respect, for instance, to pauper children in workhouses, milk adulterated with water to the extent you name, can be sufficiently nourishing?—If the same quantity of milk alone is given, it is not so nourishing.

1863. You are obliged to give them double the quantity?—You ought, but they do not do it in workhouses, unfortunately.

1864. Then the public health is materially injured by the adulteration of milk with water?—I would check it in workhouses, in reference to the person selling the milk; I would not deal with him; and when detected, I would inflict a punishment upon him as in a case of fraud.

1865. What applies to workhouses, would of course apply in a minor degree to private families; children taking a great deal of milk must take a much larger quantity of liquid to obtain the same amount of nourishment?—There is no limit in the quantity of milk given in private families generally, or it is made up in private houses by bread and other articles.

1866. Not in the families of poor people?—There is a difficulty there, and I should be inclined to give the power of inflicting a heavy fine upon a person detected in mixing water with milk.

1867. Mr. *Peacocke.*] Have you examined spirits in Ireland?—No.

1868. Mr. *Wise.*] Has your attention been drawn at all to quack medicines in Ireland; are they consumed in a large quantity?—They are consumed, but not at all to the same extent as in this country. The proof of that is, that we have scarcely any proprietors of quack medicines in Ireland; the common medicines used are Holloway's Pills and Morrison's Pills, which come to us from England.

1869. In Paris the medicines which are called secret medicines are not permitted, are they?—They must be first submitted to a committee of the Academy of Medicine, which reports upon them; the prescription must be registered, and the plan of preparation is, to a certain extent, made public; but there is protection given to the inventor of the prescription.

1870. Do you think it would be desirable to put any limit to the sale of quack medicines in this country?—I do, unquestionably; they are exceedingly injurious.

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injurious. I have, in my own practice, seen several examples of injury arising from the indiscriminate use of quack medicines.

1871. Have you seen any injury to the public health from the inferior quality of medicines; have you given prescriptions, and found that they have not had the proper effect?—Yes; for example, the effect which was intended by simple purgative medicines has sometimes not been produced.

1872. Are you of opinion that all dispensers and sellers of drugs should be licensed, and if found to sell adulterated articles, their licences should be suspended, or some penalty should be inflicted for the sale of such impure articles?—They should be exposed to punishment, increasing the punishment for the second and third offence. The question might occur then as to the withdrawal of the licence after a certain number of offences.

1873. Mr. *Villiers.*] Are you in the habit of recommending your prescriptions to be made up at particular shops?—No; having a tolerably fair share of house practice, I constantly ask my patients who makes up their prescriptions, and if it is a respectable house I advise them to continue there. If it were a house which is in the fourth class in our list, I should rather shake my head, and advise them to go to one of the first-class houses.

1874. Is it the practice among medical men in Ireland to advise their patients to go to particular houses?—No.

1875. Can you give the Committee any evidence as to what the feeling is among medical men with respect to impure drugs; do they feel it to be a great mischief?—They do; they are frequently disappointed in the effect they expect in the treatment of disease.

1876. Why do not they name some houses to their patients where they can get their prescriptions made up?—There is a great difficulty, which is this, our compounders of prescriptions are also prescribers; they are the family apothecaries. If a physician should say to a patient, "Do not get your medicines from so and so," that apothecary being dismissed from the family would be careful never to call in that physician or surgeon again.

1877. Mr. *Peacocke.*] I understand you to say that you would place some restrictions upon the sale of quack medicines, and upon the sellers of them?—I would prohibit them altogether.

1878. Would not that be opening a difficult question; would you include homœopathists in that restriction?—I would certainly; not that their medicines would do so much mischief, but they prevent good being done.

Mr. *Philip Ripley*, called in; and Examined.

Mr. P. Ripley.

1879. *Chairman.*] YOU are a Tea Broker?—I am.

1880. Have you been a number of years in the trade?—I have been altogether about 20 years in the trade.

1881. You have been some part of that time in China?—I have been 10 years in China.

1882. How long is it since you left China?—I left China in June 1854.

1883. Will you state to the Committee generally whether, in your opinion, tea is an article which is adulterated, and whether it is adulterated in China or in this country?—I should say, in my opinion, tea is an article which is free from adulteration.

1884. Both in China and in this country?—Yes; such adulteration, however, did exist previously to the discontinuance of the manufacture of lie tea, which was a mixture of dust, and I should suppose of some glutinous substance, probably made from rice. To the best of my belief, no other leaves than those of the tea-plant are mixed with the article purchased and consumed in this country, but it is imported pure; and with regard to the lie tea above referred to, it was first shipped from China, I believe, in 1846, so that it probably arrived in this country in 1847. The shipments at first were limited, and did not exceed, I should say, 5,000 boxes, or about 100,000 lbs. But when the prices realised for those became known, this quantity was increased threefold; and eventually as much as 400,000 lbs. to 500,000 lbs. may have been exported from China in one season.

1885. In what year was that?—That may have been in 1848 or 1849. The shipments, however, fell off when the fact of the stuff being spurious became

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known in this country; which I endeavoured in some measure to assist, by sending specimens, both black and green, neither of which contained a leaf of tea, among my collection of teas in the Great Exhibition of 1851.

1886. Mr. *Moffatt.*] You were at that time in China?—I was.

1887. In those specimens which were in the Exhibition, there was no tea at all?—No; it was merely tea-dust, and I should suppose a substance probably made from rice.

1888. Nothing very deleterious?—I do not think so; the price obtainable in this country was so much reduced when the fact of its being spurious became known, that, instead of a profit being made, heavy losses were incurred by its shipment from China. This naturally prevented purchasers, and, to the best of my belief, when I left Canton in June 1854 the stuff was no longer made; I do not believe that in June 1854 this stuff was made.

1889. Mr. *Villiers.*] To whom did you make it known?—I exhibited those specimens to the public.

1890. Before that time did you make it known to the importers here?—No; because I was an importer myself; but I would never allow that stuff to be shipped.

1891. Importers were not ignorant that it was impure, were they?—I should think the probability is that they were not; the shipment of that stuff was confined to a few people only.

1892. Mr. *Moffatt.*] The result was, that the public did not like this tea, and discontinued its use, and it did not pay for importation?—The losses were so heavy, from the difficulty of making sales here, and the low price realised when sold, that it was no longer shipped from China, and consequently the Chinese discontinued the manufacture.

1893. Mr. *Villiers.*] That was after you made it known?—Other parties also wrote about it; but I tried to aid it by sending those two specimens with the mark on the top of the box; it was becoming partially known before I sent those specimens.

1894. Do you mean that complaints were made by persons who had purchased it in retail shops?—I cannot speak to that.

1895. You detected it and made it known to some persons here?—The wholesale houses here knew it, and a good many of them, I believe, would not buy it at all.

1896. Those who did did not require your information?—No; I wanted to make it generally known in the country, and so I included those two specimens among those which I sent to the Exhibition.

1897. Mr. *Moffatt.*] I understood you that you were in China from the year 1846 to the year 1854?—I came over here in 1851.

1898. Are the Committee to understand that this importation of spurious tea continued to increase from the year 1846 up to the year 1851, or that it materially decreased in the year 1849-50?—I should say not; I think it increased. I think the importation in 1851 was probably the largest.

1899. What amount of this spurious stuff was imported in 1851?—I should not think it exceeded half a million pounds.

1900. You have stated that there was half a million pounds imported in 1848-49, and yet you think it increased from that time?—I intended to state that the first importation into this country was in 1847, and at that time it was about 100,000 lbs.; after 1847 it increased about three-fold, and eventually it became as large as 400,000 lbs. or 500,000 lbs.

1901. That was in the year 1851?—1850 or 1851.

1902. And since then you have information in your possession which enables you to express a strong opinion that no lie tea is sent from China to this country?—I believe it is not now made.

1903. Can you give the Committee any information as to the relative value of lie tea in 1849-50, and the present value of what remains in this market unsold?—The original price the stuff realised was about 1 *s.* a pound.

1904. Is it sold now at 1 *s.* a pound?—No.

1905. Would it be saleable at 6 *d.*?—You would have considerable difficulty in selling it at 6 *d.*

1906. Mr. *Villiers.*] Would not it do for mixing?—They might mix it.

1907. Did they use to sell it as inferior tea, or to mix with other tea?—I should think they mixed it before.

1908. It would do to mix now and sell in that way, at the price of good tea, would not it?—According to the best of my belief, there is so small a quantity of that stuff in existence that I do not think they would have it to mix.

1909. Have you been to China since 1851?—Yes. I came home in 1854.

1910. Have they discontinued the manufacture in China?—Yes.

1911. Do they adulterate any other tea which they send here?—No. In the first instance this lie tea was manufactured from tea dust, which we see in the streets of Canton in large quantities exposed for sale, which the poorer classes purchase, but the shipment became so extensive that the Chinese had recourse to dirt and anything. The next matter I have to mention in regard to adulteration is as to the facing or colouring green teas, which I for one do not consider an adulteration; the colouring matter is used in such small quantities, that generally speaking, it is scarcely perceptible, and it is only applied to meet the wishes of the foreign buyers.

1912. Is there no such thing as green tea?—I do not think there is, in its original state.

1913. Mr. *Wise.*] Is the main object to make an inferior tea look a superior one?—No; it is merely done to suit the demand of the foreign markets.

1914. It makes a tea which is not elegant in appearance look more attractive to the public eye?—It is coloured a little.

1915. Mr. *Villiers.*] There is a peculiarity in what is sold as green tea in this country?—Yes; it is manufactured in a different way.

1916. There is a peculiarity of flavour?—Yes.

1917. Is that the result of any facing, or any mode of preparing that tea?—All green tea is slightly coloured, I believe; but in this country I believe there is an error generally prevalent respecting the manufacture of green tea; it is generally supposed to be dried upon copper to give it that green appearance; but it is not the case; I believe it is the same leaf as the other, only grown in different districts.

1918. The properties are not quite the same?—No, it is cured differently.

1919. Mr. *Moffatt.*] You attribute the different properties to the different manufacture of the article?—Yes.

1920. That opinion is corroborated by Mr. Fortune in his two books on the Tea Plant in China, is not it?—I do not know.

1921. *Chairman.*] What difference is there in the mode of curing the tea?—The leaves of green tea are squeezed as soon as gathered, and rolled by the hand in wicker baskets, and when the juice has by this means been expressed, the leaves are placed in moderately warm iron pans and dried, being exposed to a bright light at the same time. With black tea, on the contrary, the leaves are left in a heap to ferment, and when they have become tough and somewhat decomposed they are exposed to excessive heat, and packed whilst yet hot.

1922. Do you think that that mode of preparing would account for the striking difference in the medical properties of the two teas?—I think so.

1923. You are aware that the effect of green tea upon the constitution of some persons is very different from the effect of black tea?—I believe it is entirely imagination. It never affects myself so.

1924. Mr. *Moffatt.*] Are black teas and green teas obtained from the same district?—I think not; there are the green tea hills and the black tea hills.

1925. There may be something in the different soil which leads to the difference?—Yes.

1926. Mr. *Villiers.*] Are the prices different?—Yes; there are different prices for all sorts of tea.

1927. Has not green tea a rather higher price?—No; there is low-priced green tea.

1928. Mr. *Peacocke.*] The highest price of green tea is higher than the highest price of black tea, is not it?—I think not. There are some specimens of black tea sold at a higher price than the best green tea is.

1929. Mr. *Moffatt.*] Is it your opinion that the colouring which green tea is subjected to is prejudicial to the health?—Certainly not; the quantity used is so small, that whatever might be the colouring matter, it would not affect anybody.

1930. What is the colouring matter generally made of, in your opinion?—Some people think it is Prussian blue; I am rather inclined to think it is smalts;

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smalts; I have seen smalts imported into Canton in considerable quantities. It is a bright blue substance, somewhat similar to that which I have seen used in the manufacture. It has nothing deleterious in it.

1931. Mr. *Villiers.*] You have been present at the manufacture of tea?—I have.

1932. Have you attended it for the purpose of making any report upon the manufacture?—No; I was an importer of tea and inspected my own teas on the other side.

1933. Are you in a position to state that there is not any adulteration of tea there?—As far as I have seen in China, I should say that no adulteration exists in tea which is shipped to this country at the present moment. I have been in the factories there, and I have friends who have been in other factories in Shanghai and about the tea hills there.

1934. There would be an interest in adulterating tea, would not there, and it would be difficult here to detect it?—I think not; all teas before they are imported here are inspected by competent persons; every merchant there has his own tea inspector.

1935. There is nothing like a government officer to secure that pure teas should be exported?—That could not be done.

1936. Has the tendency of the price been to rise at Canton of late years?—No, I should say not.

1937. Why is that; there has been a much greater consumption, has not there?—Yes; but I do not think the price is higher in Canton now than it was some years ago; in fact it is not so high. When I first went to China the price of tea was much higher than it is now.

1938. What has been the occasion of the great fall in the price in the market here?—We have too large a quantity imported.

1939. The quantity is much larger than it used to be; but the consumption has also increased?—Yes; but we have too much tea imported to keep up the price.

1940. There is much more tea imported than there used to be; does not that increase the demand in the country itself for the article?—Yes.

1941. Can tea be produced infinitely there?—I should say it might.

1942. In the neighbourhood of Canton?—Yes; in all the different parts; there are several districts round Canton where tea is made. In fact you may see tea growing on the hills there close by the English factories. Several kinds of tea are grown close by the place where we lived, and that tea is generally used by the poorer classes of the Chinese, and is not fired for the home market.

1943. I presume you are connected with some houses in London?—I was an importer before; I am a tea broker now.

1944. You are connected with importers?—Yes.

1945. Mr. *Peacocke.*] Did those houses who imported this spurious tea in 1851 sell it as spurious tea?—They sold it as tea, and left the buyer to find out whether it was spurious or not.

1946. Viscount *Goderich.*] You do not know anything about the adulteration of tea at home, do you?—No.

1947. Mr. *Villiers.*] Are you answerable for the tea being unadulterated in your purchases; if you had to purchase tea for any party, and a portion of it were adulterated, should you be answerable for that?—I should say not.

1948. Mr. *Moffatt.*] You show the buyer the sample, and leave him to judge of it?—Yes.

1949. All you engage is that the bulk shall be equal to the sample you show him?—Yes.

Mr. *William Weston,* called in; and Examined.

Mr. *W. Weston.*

1950. *Chairman.*] YOU are a Tea Broker?—I am.

1951. You have been engaged in the tea trade for a considerable number of years, have you not?—For nearly 30 years, and as a principal 11 years.

1952. Have you been in China?—No.

1953. You have heard the evidence of the last witness; so far as your knowledge extends to the facts he has stated, do you concur with him in opinion?—Yes, mainly.

1954. You

1954. You believe that the tea imported into this country is generally imported in a pure state?—I do, decidedly. We have ourselves had no lie tea, such as Mr. Ripley referred to, through our hands since 1852; we then sold some at 6 *d.* a pound, it having cost the merchant 1 *s.* I believe that the importation had nearly ceased at that time, and at this moment there is no more tea of that description.

1955. Mr. *Villiers.*] Why did you sell this tea at 6 *d.*?—Because we could not get a better price for it. I believe at this moment it would not be saleable at any price.

1956. *Chairman.*] As the tea is, in your opinion, imported in a very pure state, will you give the Committee your opinion as to the possibility of adulteration in this country; and your opinion as to whether adulteration does take place in the article of tea after it is imported?—It is my confident opinion that no article reaches the consumers' hands in a purer condition than tea.

1957. The Committee has heard something with regard to selling old saturated tea leaves?—It is a likely thing; but it would be to a very limited extent, in low shops, and in low neighbourhoods. I have had very considerable experience; we are interested as brokers to the extent, I dare say, of about 7,000,000 lbs. a year, besides coming in contact with the whole of the stock in London, which is, at the present moment, about 57,000,000 lbs., and I never met with an adulterated sample in the way of business; such a thing has been brought to me as a curiosity, but not in the way of business.

1958. Mr. *Villiers.*] It would be possible for that to be so and yet that a good deal should be sold, would not it?—Not as a system; it might be the case to a limited extent, but as a system it does not exist.

1959. What is your connexion with the retailers?—We sell as brokers; the importer puts his goods into our hands to value and to sell. We sell to the wholesale tea dealers; we do not come into contact with the retail dealers, but we are so intimately acquainted with the trade that we could not fail to hear of it.

1960. How is it you know what the retail dealers sell to the consumer?—I am not in a position to speak to that; it is my confident belief, speaking of an article with which I have been connected all my life, that the consumer receives his tea in a perfectly pure condition.

1961. The consumer is not always of that opinion himself, and he seems to purchase of a person you cannot answer for?—That is true.

1962. You have not made experiments, have you, for the purpose of satisfying yourself whether the retailer does generally practise frauds of this kind upon the consumer?—No; I believe that it is so utterly unfounded, that I have not given myself the trouble to seek any information on the subject.

1963. You can only answer for your own business?—I can answer for the tea trade of the port of London.

1964. The tea which you value?—And the tea which we come in contact with.

1965. Beyond that your experience does not extend?—No. I am sure I should have heard of it if such things existed.

1966. *Chairman.*] Your opinion as to the purity of the tea in retailers' hands is founded upon your belief, that if there were any extensive adulteration it must, from your connexion with the tea trade generally, have come to your ears?—Yes.

1967. Mr. *Villiers.*] Will you tell us how?—I have no doubt we should hear of it from some of the trade, or the retailers themselves would mention it, if their brethren were guilty of it.

1968. Would they tell you they had sold impure tea?—No; the retailers of such tea would not do that. I do not think there could be a stronger fact than this; there has been an attempt on the part of the Chinese, who would produce anything if they were paid for it, to introduce an impure article; the ordeal has been gone through, and the tea which cost 1 *s.* has been sold at 6 *d.*, and is now utterly useless. The importers who would import anything which paid them import it no longer.

1969. Have you ever seen any specimens of sloe leaf dried and sold as tea?—There was a manufactory, which very soon came to an end, when tea was under the Excise; it was carried on in Mincing-lane, by a Mr. Heale; I once saw a sample of that tea.

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1970. Mr. *Moffatt.*] That tea was made under a patent from Government, was not it?—I am not aware of that.

1971. You are, as a tea broker, very much thrown into contact with the wholesale dealers in London, are not you?—With nearly every wholesale dealer of repute.

1972. You would have an opportunity of knowing if they were aware of any practice of selling adulterated tea throughout the country?—Decidedly I should, in my opinion.

1973. You know most of the wholesale dealers in London, and are in daily communication with them?—I see most of them daily.

1974. Have you ever heard of the importation of any spurious tea into this country, except this lie tea?—No; some years ago we had some junk tea from Singapore, when the price of tea was such as to induce importations from thence. Some of it might have been tea, but the presumption was that it was not tea at all. As to the difficulty of detecting that, brokers are supposed to make so accurate and complete an examination of the tea, that they could not fail immediately to detect anything of the kind; it is not a question of the possibility of its eluding the observation of a proper judge.

1975. Mr. *Villiers.*] Did they detect this?—Certainly.

1976. Mr. *Moffatt.*] What was the consequence, in reference to this junk tea which was imported; what price did it realise on its earlier importations, and what price did it realise when it was found that it contained some spurious leaves?—The earlier importations brought above 1 *s.*; when it was found that the tea contained spurious leaves, I am enabled to say that it sold as low as 4 *d.*, and I believe at a lower rate than that.

1977. Mr. *Villiers.*] What course did the brokers take on that occasion?—We did not consider the public as our clients; we simply could not sell it. I believe the fact was it was exported; I think it went to Holland.

1978. The merchants here exported it?—Yes; not finding a profitable sale for it.

1979. Mr. *Moffatt.*] The result being that the public would not take bad tea, and therefore it was exported?—Yes; I think the question may be safely left to the public.

1980. The price of this inferior tea, when first introduced, was 1 *s.* a lb.; and when the public would not take it, it fell to so low a price as 4 *d.*, and was ultimately exported to Holland?—Yes.

1981. The brokers did not feel themselves called on to denounce the tea as spurious, but left the public to protect themselves, which they did?—Yes.

1982. Viscount *Goderich.*] Did this tea, which you say was exported to Holland, ever get into the hands of the public in any way?—It very likely did, to a small amount.

1983. The chief part, you said, was exported to Holland?—It was mainly exported.

1984. Mr. *Moffatt.*] This tea was only exported to Holland after it had been tested by the wholesale dealers in this country, and they had found that it did not suit the retail taste?—Exactly so.

1985. Viscount *Goderich.*] It appears that an attempt was made to sell it to the public in this country?—I think it is very likely, but not by respectable people. There will always be found, in a large trade like the tea trade, people who might see their advantage in selling an article for that which it is not.

1986. During how many years was the importation of lie tea carried on?—Mr. Ripley stated that it began in 1846; the last we had in our charge was in 1852.

1987. Therefore during six years the public were unable to take care of themselves?—Mr. Ripley stated that the amount reached half a million pounds; I should not have thought it would be so much. The public bonded stock of this country is 74,000,000 lbs.

1988. You said it was not respectable persons who sold the lie tea; was not the lie tea imported by respectable firms?—Yes; they sold it in the public market, and everybody who dealt with them knew what it was; we sold some ourselves; the last we sold was at 6 *d.* a pound, on behalf of the importer.

1989. Mr. *Kinnaird.*] I think I gather from your evidence that, knowingly, no broker would sell spurious tea?—I do not say that; I say he could not fail to know it; he would sell it as false tea; we should sell any article, letting the party who dealt with us distinctly know what he was buying.

1990. Mr. *Wise.*] If the public had not found out what lie tea was, the importers of tea would have continued to have sold it?—If the importers could have continued to sell it profitably, doubtless they would have done so.

1991. Viscount *Goderich.*] I understand you to say that you should look upon a retail dealer who sold tea of that kind as not entitled to be called respectable?—If I was assured that the retail dealer made the consumer understand what he was buying, I should think him an honest man; if he did not do that I should think it a fraud.

1992. Mr. *Villiers.*] Do you know if anything is mixed with the tea to suit the taste of the public here?—Not in the case of tea.

1993. Are there any kinds of mixtures with tea which you could justify, as not being deleterious?—With the exception of low neighbourhoods, where re-dried leaves may be sold, for anything I know, though I have never seen such a thing, I believe it does not exist anywhere.

1994. Viscount *Goderich.*] I understand you to say that you do not in the way of business come personally into contact with the retail dealers?—No, excepting very large retail dealers, such as Twinings and Ridgways, and such houses.

1995. Mr. *Villiers.*] I presume, you must observe, that there are some teas which are sold at a very low price; does it ever strike you that that is too low a price for it to be genuine tea?—I do not recollect such a quotation. I have seen a quotation in grocers' shops which would not afford any profit, or such a shadow of a profit, that I regard it as a mere attraction; if a purchaser had presented himself I dare say the grocer would have advised him to take a better article.

1996. Viscount *Goderich.*] Do you see those prices very often advertised in the shop windows?—Less in the tea trade than in any other description of trade.

1997. Mr. *Villiers.*] What is the lowest price at which tea could be sold?—The selling price of common congou tea in bond is 9 *d.*, the duty being 1 *s.* 9 *d.*

1998. Mr. *Wise.*] As you admit that fictitious articles may be so easily palmed upon the public, do not you think the public need some protection?—I do not think I admitted that they could be easily palmed upon the public.

1999. Could a poor man find out that he had lie tea in his teapot?—He would find that he had something nasty, and would not go to the same shop again.

2000. *Chairman.*] You would hardly give that opinion upon the subject of adulteration generally, would you?—I am speaking of tea only; my evidence is confined to that.

2001. Mr. *Moffatt.*] Is there anything prejudicial in the colouring of green tea?—I have heard the colour attributed to gypsum and Prussian blue; but it is used in so slight a form in the description of green teas which form the great bulk of the importation, that it is not injurious.

2002. Mr. *Villiers.*] Do you think it would be easy for any person to detect a mixture of inferior tea with superior, if sold as superior tea?—I do not think it would be easy; it is only a question of taste; the public are very critical judges; much more so than might be believed.

2003. You do not know of any check for that, probably?—Except in the public taste.

2004. There were formerly persons at the India House who were tasters of tea, who could at once pronounce upon the quality?—That was only under the scale of duties; a certain duty was paid for bohea and a certain duty for congou; the difficulty was to draw the line between tea paying the lower duty and the higher.

2005. There is no check to the mixture of inferior teas with superior?—I do not know of any, beyond the taste of the consumer and the interest of the retailer.

2006. Mr. *Kinnaird.*] You yourself would with perfect ease detect the different qualities of tea; would that facility be readily acquired?—No; it takes considerable experience to do so.

2007. If it is so difficult to acquire it, the public can be taken in for a considerable time before they find it out?—They would soon find out, I imagine, whether they liked the tea,

2008. Mr. *Moffatt.*] The question has been asked as to a quantity of inferior tea being imported; you are aware that under the system of the East India Company, there were official inspectors of tea in China; was not there under that inspection a very large quantity of tea imported of so low a quality that it would not be saleable in this country if imported now?—Distinctly.

Mr. *Richard Locock*, called in; and Examined.

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2009. *Chairman.*] YOU are a Wholesale Tea Dealer?—I am.

2010. Belonging to the firm of Garrett & Company, an old firm in London?—I lived there many years, and when my old employers gave up business, I partly succeeded.

2011. With whom does your connexion principally lie; with wholesale tea dealers?—With country buyers; we have very few town buyers at all.

2012. They are retail shopkeepers in the country?—Yes; we supply them to a large extent.

2013. You have heard the evidence of the two gentlemen who preceded you, to the effect that, generally speaking, tea is imported in a very pure state?—I quite agree with them.

2014. I need not ask you if you dispense it to your customers in a pure state?—I can answer for it that I certainly do.

2015. In your experience, has a large amount of spurious tea ever passed through your hands?—Never. I have an opportunity of sampling it myself, and if I saw a tea which I had the slightest doubt about, I should not purchase it.

2016. Is that the practice of wholesale dealers generally?—There are some dealers who would buy an inferior article; but that is not my business.

2017. You do not believe that they purchase a spurious article?—I do not believe they do, knowingly.

2018. If I understand you rightly, they can hardly do it, knowingly or unknowingly, for the article is not imported at all?—To a very slight extent indeed.

2019. You think there is some trifling adulteration still?—I think it is ceasing. As the former witnesses said, it did not pay the importers to bring it here, and they gave it up altogether.

2020. Are you speaking wholly of lie tea?—Of tea in which there were some spurious leaves.

2021. From your knowledge of the retail trade in the country, are you of opinion that the retail trade sell their tea in the same pure and unadulterated state in which you sell it to them?—I think they do. I think there has been a great deal of fuss made about adulteration in tea, which has never taken place.

2022. Mr. *Villiers.*] Will you go on to tell us why?—It would be so soon detected. There are so many shopkeepers in every country town, that if one sold an adulterated tea it would be known in a very short time.

2023. How would it be known?—Parties drinking the tea would find it out.

2024. Did you hear the evidence given by Mr. Weston, in which he said it would require extensive experience to detect different qualities of tea?—I presume he means it would take a long time to be a judge of the article, beginning from the lowest quality and going up to the highest. We have various qualities of the article. You would not understand that for a long time. If you brought me two teas, I would tell you the difference almost in a minute, by the sight and by tasting.

2025. An ordinary consumer could not discover it?—He would soon find it out.

2026. You said it required great experience?—Yes; that is beginning with the lowest, and going gradually through.

2027. What is the check upon a fraudulent sale of teas at a high price which are inferior?—The check would be this; if you had a bad tea you would soon find it out. If I sent you a chest of inferior tea, and charged you a high price, you would soon detect it. I think it better to leave all that to the consumer; he is the best judge.

2028. Do you think there is such a marked difference between teas as that a poor man can at once discover the difference between tea worth 2 *s.* 6 *d.* and tea worth 3 *s.* 6 *d.* a pound?—I think he could.

2029. Mr. *Moffatt.*] Is not it generally found that a person who sells the best tea at the lowest price gets the best trade?—It is; there is not a shadow of a doubt about it.

2030. Mr. *Villiers.*] Do you say the lowest price, or the best tea at the lowest price?—The man who sells the best tea at the lowest price.

2031. Mr.

2031. Mr. *Moffatt.*] Did you understand the answer which has been referred to, in which it was stated that it required a long experience to be a critical judge of tea to refer to this ; that it requires a long experience to be an accurate judge of the relative price in different grades of tea, rather than a long experience to discriminate between spurious tea and true tea ?—Most assuredly. We have a much greater difference in quality in the article which comes from China.

2032. Mr. *Villiers.*] There is so little difference apparently in the taste of the different qualities, that it requires great experience to distinguish them?—We go on by degrees from the lowest up to the highest quality of tea. Sometimes there is no very great difference between two qualities, varying in price to the extent of 2 *d.* a pound, till we get up to 1 *s.* and 1 *s.* 6 *d.* I understand very frequently from retail dealers, if they happen to make a change in their canister by a fresh importation, there is a complaint made. The man has given the same price for the tea, and he hopes it will be as good, but there is a little difference in the taste, and it is soon found out.

2033. *Chairman.*] You say that the public are very well able to take care of themselves in the article of tea?—I think they are.

2034. Even if a person had sold an article which was not tea at all, you would not think it desirable to interfere to punish that person, though he sold it as tea?—If he called it tea, and sold it as tea, and it is not tea, I think he should be punished; I hardly think there is any adulteration of tea taking place in this country.

2035. Supposing lie tea were sold as tea, you would consider it a fraud?—Certainly I should ; I should not consider such a man would sell it above twice or thrice at the utmost.

2036. Viscount *Goderich.*] I understand you to say that, in your experience, you have never been asked to supply any retail dealer with anything except pure teas?—Never.

2037. And that also you do not believe that retail dealers in the country ever do sell anything but pure tea?—I think not; I hope not.

2038. That latter statement must, of course, be merely a matter of pure opinion?—Certainly.

2039. All you really are able to speak to of your own knowledge is, that your customers in the country have never applied to you to sell them any bad tea?—Not any spurious tea; I have been written to for a chest of common tea, as any other house may be. I can assure the Committee that at the present time a low-priced article is very little sought after.

2040. Their not having applied to you to sell them spurious tea may have arisen from their knowledge of your character, and their belief that you would decline to send them such an article?—I certainly should decline to send them a spurious tea.

2041. Mr. *Kinnaird.*] What class of the community should you say was the largest consumers of tea?—I think the working people.

2042. You have no hesitation, as far as your information extends, in saying that they are supplied with a genuine article?—I think, certainly, they are; from the nature of the business which I do, and the tea I sell to my country buyers, I think they generally get a very good article.

2043. Do you really think that a poor washerwoman who buys her two pennyworth of tea is a judge of the tea which is given to her?—I think a washerwoman is, certainly.

2044. Mr. *Villiers.*] What is the extent of your dealings?—I do not profess to be one of the largest dealers, but I think I pay to the revenue upwards of 40,000 *l.* a year duty.

2045. Mr. *Moffatt.*] Your firm are in the habit of employing representatives in various parts of the kingdom, are they not?—We have four.

2046. Travelling through different parts of the kingdom, who would be, I presume, almost certain to hear in the various towns they visited if there were any practice of selling adulterated tea?—I think I should have heard of it long ago from those representatives.

2047. Those representatives being in the habit of conversing freely with the representatives of other houses who vend tea?—Yes ; I certainly think it would have been discovered.

2048. Viscount *Goderich.*] Have you ever asked those representatives whether they had heard of such a thing as adulteration?—I never did.

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2049. *Chairman.*] You never heard of the adulteration of tea taking place till this Committee was first appointed last year?—No.

2050. With 30 years' experience in the trade, it came upon you as an entirely new thing that tea was extensively adulterated in this country?—Yes.

2051. Mr. *Moffatt.*] You are in habits of intimacy with other members of the tea trade; is it your opinion that if 20 or 30 of the principal dealers came before this Committee they would have any other information to give upon the subject than you have given?—I do not think they could.

2052. Mr. *Villiers.*] They would not say they sold tea themselves which was not good?—No. I have reason to believe that every wholesale dealer like myself conducts his business openly, fairly, and respectably. I am in the habit of seeing most of them very frequently.

2053. When you say you only heard of it last year, had you ever heard of a public inquiry into the adulteration of food and other necessaries before?—No.

2054. Mr. *Peacocke.*] You say you would refuse to sell spurious tea if asked to do so?—Yes.

2055. You would consider it incompatible with your respectability to sell lie tea?—Yes, and every respectable house would do the same; I think it is an insult to ask a respectable house to do so.

2056. You do not consider those firms respectable which do sell lie tea?—Certainly not.

2057. Mr. *Villiers.*] You cannot probably tell us how much lie tea is imported now?—I do not know; it would be put up at the public sale; I have seen it put up and refused over and over again.

2058. Is not it likely that it will be put up to public sale in future?—Certainly not.

2059. When it is, it is not taken, you say?—No, the trade do not want it; they would have been very thankful if it had never come to this country at all.

2060. Mr. *Wise.*] How is it entered at the Custom House; as manufactured goods or as tea?—As tea; it pays duty as tea.

2061. Do the Custom House officers know that it is not real tea?—They say that that is not their business; the Custom House officers say if it pays the highest duty out it goes.

2062. Do you think that is very beneficial to the public morals?—Certainly not; I think the Government should take care of the public morals, and if their Custom House officer saw that tea I think it was his duty to stop it instantly.

2063. Mr. *Kinnaird.*] Has there ever been any remonstrance with the Government upon the point from the dealers in teas?—I cannot say of my own knowledge.

2064. The tea dealers sold it like any other article, as it came certified to them by the Government?—It was put into their hands to be sold, and it was open to a dealer to purchase or not as he thought proper. A man goes with his eyes open, and there it is before him.

2065. Do you mean the retail dealer went with his eyes open?—First of all the wholesale dealer goes with his eyes open, and then the retail dealer comes to him to buy. The retail dealers have now become such good judges of the article, that almost all of them taste for themselves.

2066. The only persons who have not their eyes open are the consumers?—They soon find it out.

2067. Mr. *Villiers.*] Do you know if the Inland Revenue objects to the duty being paid upon lie tea?—No; they would take money for anything.

2068. Mr. *Gregson.*] Is the same duty paid upon lie tea as upon any other?—Yes.

2069. Mr. *Wise.*] Would not you think a proper system of inspection very desirable?—No; I do not think we want any inspection.

2070. How would you prevent the importation of lie tea?—It does not pay for being brought to this country; it is like everything else; it will have its day, and there will be an end of it.

2071. Mr. *Kinnaird.*] You said just now that the Government ought to be conservators of the public morals; but if there is to be no inspection, how is the Government to undertake that duty?—I say, let us take care of ourselves.

2072. *Chairman.*]

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2072. *Chairman.*] In carrying that plan out, does not it appear to you that a good deal of injustice might be inflicted upon the public. You say, let the public take care of themselves, and if a man sells lie tea for tea, he is not to be punished, or if he sells sloe leaves for tea, he is not to be punished?—I would say, let him be punished by all means.

2073. Mr. *Villiers.*] You do not object to the consumer proceeding against any man who has deceived him in the article he has sold?—Certainly not.

2074. You must have a law for that purpose?—That is for the Legislature to decide.

2075. Viscount *Goderich.*] You would not individually object to such a law?—If you could point out a good law, I should not object to it.

F. Crace Calvert, Esq., called in; and Examined.

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2076. *Chairman.*] YOU are a Professor of Chemistry, I believe, at the Royal Institution in Manchester?—I am.

2077. Whilst in that position, your attention has been called frequently to the question of adulterations, both in articles of food and in drugs?—Yes.

2078. Will you state to the Committee in what way you have been concerned in the examination of adulterations of either of those things?—I have several times been called upon, as a chemist, to inquire into cases of adulteration taking place among tradesmen in Manchester; and also I have been often called upon to examine the quality of various products used in large chemical works. Besides that, I have had my special attention called to the question of the adulteration of food as supplied in large contracts to public establishments. Eight or nine years ago, I was induced to inquire into the quality of the food supplied in several of the unions of Lancashire, and by one of my friends, who was a guardian at that time, I obtained samples from five or six unions. I examined those samples, and I will now state the general results at which I arrived, without entering into details. The articles I examined were the following: Wheat flour, oatmeal, soap, butter, moist sugar, and bread. I found that in the wheat flour, which was taken from six of the unions in Lancashire, the average adulteration went from a pure article to 74 per cent. of adulteration.

2079. What was the nature of the adulteration practised in wheat flour?—At that time it was principally potato starch and maize, but the adulterating article used for mixing with flour varied with the price in the market. At the present time probably rice and maize would be used. I may perhaps also observe that in those samples which I examined, not only was the article adulterated, but in one or two instances the flour was unsound, which was, in the case of a public contract, a very serious consideration.

2080. Mr. *Wise.*] You are aware that in mixing Indian corn with flour the miller or baker is not actually breaking the law?—I am aware of that.

2081. You are probably aware that he may sell this, provided he mentions at the time that he is selling a mixed article?—Yes; but in those cases I do not think that the miller or the contractor stated the fact that it was adulterated; and as I am upon that point, I may relate a fact, which I think is important to be stated. I have been several times requested by poor people in Manchester, and even by the police of Manchester, to examine samples of flour which have been taken to the police as being unsound. I have examined those samples, and have never found anything which might be considered injurious to health; but I have found in some instances such a great quantity of rice or maize mixed with the flour, that the flour lost the power of rising; it interfered so much with the property of the gluten and its rising by heat, that the poor people could not make bread with it. In other instances, where the flour was apparently good flour, the wheat had undergone deterioration, and the gluten had lost the power of rising, so that not only you could not make good bread with it, but when it was eaten, it was an unwholesome bread. When I found those facts, I reported them to the superintendent of police. The law, such as it is now, has prevented the police from prosecuting, though the party who had bought this was undeniably defrauded.

2082. *Chairman.*] In what respect was the law inapplicable to such a case?—As far as I can understand it, if I could have found in this flour a substance

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mixed with it susceptible of injuring the health of those who would have eaten it, the party would have been subject to a penalty; but the law does not appear to give the power to the police of prosecuting if the flour be unsound in quality, or mixed with anything like rice, or maize, or potato starch.

2083. That is, provided it is sold as a mixture?—Yes; but it is not sold as a mixture.

2084. The law would reach those who sell bread made of this mixture, unless they themselves announce it to the public as being a mixture?—I am only giving my information. With respect to the flour I have spoken of, I examined the supplies of flour which were sent in, during 12 months, to one of the unions in Lancashire. The results were, that out of about 60 or 70 analyses, the quality of the flour sent in by the contractors constantly varied. The quality of the flour sent in not only varied in point of the addition of rice or maize to the flour, but it varied enormously according to the quality of the flour itself; that is to say, a person can buy at Liverpool injured wheat, which has been wetted during the passage, and had been what is called kiln-dried, and these unwholesome wheats coming into the hands of the miller, he will mix them with a certain quantity of good wheat, and sell this flour at a low rate. It is impossible to detect this by the touch or the eye, and it is quite impossible that the governor of a workhouse can detect such instances of inequality of food.

2085. Mr. *Gregson.*] When you did detect it, was the contract cancelled?—No; not only the quality of this flour varied enormously, but in some instances the condition of the gluten injured the whole of the paupers in one of the unions; the whole of the paupers had diarrhœa, and it was found to arise from eating bread which was made from flour the gluten of which was injured; and the consequence was, that the bread, if kept only a short time, became mildewed, and the paupers who ate some of that bread had diarrhœa during the time of consuming this flour. I have the certificate of the medical man of the workhouse at the time when that took place.

2086. Mr. *Moffatt.*] Does the law give no redress against the vendor of such flour?—Perhaps the guardians, if they had thought proper to take steps, might have done so.

2087. Is not it their duty to protect the paupers against the consumption of bad flour?—I can only say that it is not known if they have the power. I am, however, only stating facts, and not intending to advert to the means of prevention.

2088. Mr. *Wise.*] Will you, shortly, state to the Committee facts with reference to the case you visited at Uttoxeter a few days ago?—In that case some samples were brought to me by the superintendent, requesting me to state to him if the samples were wheat flour, and if they were not, if I would state what they were composed of. I found they were pure ground rice.

2089. What is the effect upon flour of mixing rice with it?—Flour, to make a good bread, should contain a certain per-centage of gluten; if the flour yields only 25 per cent of wet gluten, you cannot make good bread with it without taking artificial means, such as alum or carbonate of ammonia, or some other drug; you cannot adulterate to a very large extent the English flour; it yields 26 to 27 per cent. of this gluten; but by importing Odessa wheat, or wheat coming from a warmer climate than ours, which yields 35 to 36 per cent. of gluten, they can adulterate it to such an extent as to bring down the gluten to 26 per cent., but if they go beyond that, bringing down the gluten to 19 or 20 per cent., the gluten will not have enough expansive force to expand under the influence of heat, and make a loaf of wholesome bread.

2090. What did the magistrates do in that case?—The millers were condemned to pay a fine of 10*l.* each.

2091. The millers were found guilty of selling an article for flour which was not pure wheaten flour?—Yes, and they were fined 10*l.* each.

2092. Mr. *Kinnaird.*] You have not stated what you believe to be the effect upon the stomach of bread largely adulterated with rice?—It would not be nearly so nutritive.

2093. Would it have a deleterious effect?—Not beyond this, that the water would not well work in the bread, the bread therefore would retain more water than it ought to do, to be a wholesome bread. I have here two specimens (*producing the same*) of gluten, one of a good gluten, and the other of a bad one.

2094. What

2094. What quantity of flour produced this amount of gluten?—It weighed 100 grains when in the moist state; it could be extracted from 300 grains of flour. I found that the bread which was supplied to the unions in Lancashire contained an undue quantity of water. It is a well-known fact, that bread should not contain more than 40 per cent. of water, and if bread contains more than 40 per cent. it becomes exceedingly liable to decay. To show the Committee the importance of the statements I am putting forward, I will mention that some few years ago, several of the French regiments in Paris were affected with diarrhœa; the French Government appointed a committee to examine the case; it was found that the bread contained a great quantity of water; the bread underwent decomposition rapidly, and when it was examined by the microscope a large quantity of cryptogamic plants were discovered in it. In the unions of Lancashire the large quantity of water in the bread must be considered highly objectionable, principally to the paupers, and it would be the same for prisoners, because those people are all on a limited amount of food; the amount of food they receive is the lowest quantity which will maintain health, therefore anything which tends to decrease that, is a decided disadvantage to them. The average quantity of water I found in the bread in Lancashire workhouses, amounted to from 56 to 59 per cent., 18 per cent. more than is recognised to be the real proportion which bread should contain.

2095. Mr. *Peacocke.*] To what do you attribute the presence of this excess of water?—To the bakers wishing to get a better profit.

2096. How do they accomplish it?—By mixing more water in the flour.

2097. There is no substance added for the purpose?—It is not necessary that there should be.

2098. Mr. *Swift.*] Is it effected by the different mode of mixing?—It is owing to the way of working the flour; the baker can work more or less water in his bread.

2099. Without the use of any other ingredient?—Yes.

2100. Would not the baking affect that, to some extent?—If the baker has his oven very hot indeed, and puts his bread in and lets it remain in a short time it gives it a coating and the water inside remains.

2101. Mr. *Wise.*] The application of potato or rice enables the loaf to hold more water, does not it?—Rice and potato would have that effect; I am not prepared to state what the fact is as to maize.

2102. Do you say that the baker, after the loaf has been put into the oven, glazes it over with some material to make it retain its dampness?—No; what I mean to say is, that the outside of the loaf is baked quickly.

2103. You mean that there are several ways of baking; that one mode takes out all the dampness and another retains a great portion of the dampness?—Yes; that is why bakers are in the habit of adding potato and rice flour. It pays the baker to employ potatoes which shall be at the same price as wheat, because the potato flour will enable him to work in a larger quantity of water into the bread. The way it is done is this: they do not buy potato flour, but they buy potatoes; they boil them and work them with water, and instead of adding water to their flour they add this potato mixture, this potato flour having the property of retaining a large quantity of water.

2104. So that where bread is sold by weight it assists a fraudulent intention?—It goes towards it.

2105. Mr. *Peacocke.*] Is it easy to detect the presence of this excess of water by the eye?—Not at all.

2106. Can you state any easy test by which it may be known?—By taking a certain weight and putting it on the hob and letting it dry thoroughly and weighing it again.

2107. You are aware that bakers are in the habit of mixing rice flour with other flour for the purpose of improving the colour, as they say?—I think it might improve the colour a little, but that is not their purpose, I think; alum will do that for them; alum will make bread white and it will make the gluten work. When the gluten is injured to a slight extent, by adding a certain quantity of alum it will enable the gluten to work. The next article that I have examined is milk. I found that the milk which is supplied to five or six unions in Lancashire is milk which has been partially creamed; they have removed a part of the cream, and then they have added, as a rule, from 10 to 15 per cent. of water to the milk. The contracts are, that they shall furnish to the workhouses new

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milk. Instead of that they allow it to stand a certain number of hours and take off a portion of the cream and mix the milk with from 10 to 15 per cent. of water and then supply it to the unions. The pauper, therefore, does not receive the quantity of food he is expected to receive by the regulations which have been established for his feeding. I never found anything else but water in milk.

2108. No chalk?—No, nothing but water; that is the cheapest and most practicable adulteration which can be found. The next matter is oatmeal. I have found oatmeal, generally speaking, in fact always, mixed with rice and maize, to bring down its price. Besides the samples of those five unions, I have examined 40 or 50 samples of oatmeal, and none of them have I found to be pure and genuine oatmeal. The effect is this, it makes less porridge; in other words, it is a direct loss to the ratepayers, because the cook in the workhouse must use a larger proportion of this adulterated oatmeal to make a certain quantity of porridge than if it is pure oatmeal.

2109. Mr. *Gregson.*] Is rice much cheaper than oatmeal?—It depends entirely upon the state of the market; generally speaking, it is so.

2110. It is not so nutritious as oatmeal?—No. I believe the great evil of the present day, is not so much the extraordinary cases of adulteration, as the tendency, through competition, to lower the quality of the article; mixing it with a cheaper article, so as to bring down its price, to tempt the buyer. In doing so, very often, from the want of sound knowledge, the quality of the article is so lowered that the party who sells that article, has completely destroyed the nutritious power of it. This is very forcibly seen in Manchester. We have an immense population, flour is ticketed at a certain price, and where poor people think they can get a pound of flour cheaper at one shop than another, they go and buy that cheaper flour. The next day the man's competitor lowers his flour a halfpenny, and that goes on to a great extent, till really the working man suffers enormously from the lowering of the quality of the material by competition.

2111. Mr. *Moffatt.*] They lower the quality of the material in order to supply it at a lower price?—Yes.

2112. Mr. *Swift.*] Are the supplies to workhouses in Lancashire obtained by means of public tender?—Yes.

2113. Are the guardians in the habit of taking the lowest tender?—Generally speaking.

2114. Without regard to quality?—If the two articles appear to be of the same quality, the lowest price will of course command their attention.

2115. Are they sufficient judges of the articles which are brought before them, in your opinion?—I should say not, generally speaking. The present means of adulteration are so perfect, that the usual means of detecting adulteration are beyond their reach. They have only three organs to detect it with: they have the eye, the taste, and the touch; but those means are not sufficient at the present day. Millers can bring to bear such perfect means of grinding as to deceive the eye, the touch, and the taste. Therefore you must go a step further to discover this adulteration.

2116. Do you think that the introduction of the microscope would have the effect?—I think the microscope and chemical tests are the means to overcome those adulterations. After a person has contracted for an article, the only person who has anything to do with accepting those goods, is the governor of the workhouse. As the governor of the workhouse has a great number of duties to fulfil, and it cannot be expected that he shall be a chemist, and shall spend the whole of the day in examining flour or any other article, therefore he is obliged to trust to the contractor to supply the article contracted for; and admitting that he does not supply the article contracted for, the governor has no means of proving the fact. Contracts are made at the present day by simple denominations; that is to say, the Manchester workhouse contracts for so many sacks of best seconds flour, so many firkins of butter, so many boxes of hyson tea; all those are mere words.

2117. Do not you think that to a body of tradesmen who are about to tender for the supplies of a workhouse, if they have a prior knowledge that the guardians generally take the lowest tender, it is almost an inducement to deteriorate or adulterate the article they are about to tender for?—I think so; I think also the knowledge that there is nobody to ascertain what is the quality of the supplies, and also the knowledge that the parties who are called to do

so

so are not able to judge, and that it is impossible to force a man, according to the present mode of contract, to keep to a given quality, are all inducements. The quality of best seconds flour, for example, may vary very much; still, it would be called best seconds flour. What I think is, that the contracts should be made according to several standards; that there should be a standard of best seconds flour, for instance.

2118. The guardians, probably, in that case, would not be able to detect whether it is the seconds quality?—I think there is an officer wanted for the purpose.

2119. Mr. *Wise.*] You think the adulteration is so skilfully carried out as to require science to counteract it?—I may state, that my position is such, that I would, on no consideration, accept anything connected with this food question, and therefore my evidence is quite unbiassed with respect to any object which I may be supposed to have in view. The next article I shall call your attention to is butter. The quantity of water and salt that such an article as butter should contain is $2\frac{1}{2}$ per cent. of salt and 10 per cent. of water. In the butter supplied to those unions, the quantity of salt varied from 2 per cent. up to 14 per cent., and the quantity of water from 10 to 15 per cent.

2120. What is the effect in that case?—It is very disagreeable indeed to have butter with 10 per cent. of salt in it.

2121. It is not injurious to the constitution?—Not the least.

2122. Deception, therefore, would be practised for the sake of profit?—Yes; I have also found that the soaps supplied to workhouses vary considerably; the quantity of water in soap is sometimes very high indeed.

2123. What is the standard which you take for soap?—Thirty-two to thirty-four per cent. of water; many soaps supplied to the workhouse went up to 58 per cent. Moist sugar I have generally found pretty pure.

2124. Mr. *Moffatt.*] Tobacco?—That is very little consumed in workhouses; I have examined several samples of tobacco for the Excise; I examined every article which came into the unions, such as tobacco, sugar, sago, soda, snuff, stone blue, and starch, and the total number of analyses I made, during 12 months, amounted to 289; in 138 of those, I detected adulteration or bad quality.

2125. Mr. *Swift.*] Are you acquainted with the actual value of the articles supplied to workhouses?—I am not at the present time; I was at the time that I made the analyses.

2126. I suppose you were informed of the prices at which they were supplied to the workhouse?—Yes.

2127. Do you think the tradesmen who supplied them could have supplied the genuine articles at the prices at which the tenders were accepted?—In some instances they would have been able to do so. I will take flour, for instance; a tender was offered to supply the workhouse with the best seconds flour at the market price of the day; it might be a great loss or a great gain to the contractor, according to the state of the market; the contract was made at the price for the time being; therefore, in that case, undeniably, the fraud was to the detriment of the ratepayer and of the pauper, and to the benefit of the contractor. In the case of milk, I think, if they had required pure milk, the tender must have been slightly higher; but as neither the governor nor the guardians were able to detect whether that milk was genuine or adulterated with a certain amount of water, they took that tender which appeared to them the cheapest, recommending to the governor to see that the milk was maintained of an average quality.

2128. You think several of the tenders were taken at prices at which a tradesman could not have supplied the genuine article?—In many instances I believe it; there is one paper which I should like to place in the hands of the Committee for their consideration. I calculated, taking the average quantity of milk which was supplied in one of the unions, the amount would be 4,607 *l.* Supposing there to be 13 per cent. of adulteration, the loss to the union was 664 *l.* Taking the supply of flour at 3,278 *l.*, and supposing an adulteration to the extent of 29 per cent., the loss to the union would have been 959 *l.* But the flour being adulterated with articles having a commercial value, I deducted the value of the articles used for the purpose of adulteration, and found it would amount to 183 *l.*; the result was that on a supply to the extent of 14,629 *l.*, the loss to the union would be 2,271 *l.*

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2129. Mr. *Wise.*] Independently of the loss of health to the parties who consume the articles?—No doubt.

2130. Mr. *Moffatt.*] Is not that calculation based upon the assumption that you would have got a perfectly pure and genuine article at the same price at which you obtained the adulterated article?—No; in the case of milk the figures must be subject to some correction; in the case of flour, however, my figures remain quite true; and also in the case of most of the articles.

2131. Mr. *Swift.*] Do you mean to say that you obtained flour and other articles, which you analysed, genuine, at prices which were not higher than those which the tradesmen tendered to the several unions?—Yes; when I took those standards I did not go and buy a magnificent fine flour, but I purchased several samples of the best seconds flour; I took them as a standard, and it is upon that standard that my figures were based.

2132. Did you tell those tradesmen of whom you bought those samples, that you wanted them in order to give evidence upon them at a future time?—No; I always employed an intermediate party; and there was no idea at the time that they were for the purpose of analysis.

2133. Do you think if parties had received orders for those goods at those prices, the bulk they would have supplied would have been equal to the sample you obtained?—Yes; instead of contracting by simple denomination, I think it would be better if you were to contract for an article containing so much gluten, which would rise to a certain height, admitting of a certain amount of adulteration (for there is scarcely any flour without a certain amount of adulteration); I would say to the contractor, "We shall want so many bags of flour according to this standard, giving you a certain limit of value in the adulteration and in the rise of the gluten; but where it goes beyond the limit at which it will be fit for making bread, we will reject the article." Generally, dealers in articles know to a great nicety what the quality is.

2134. *Chairman.*] Have you made any examinations of drugs?—I have; 12 months ago I requested the Sanitary Association of Manchester to procure for me samples of drugs from 12 shops in Manchester, six of the most honourable, and six of the lowest shops; from 14 shops I obtained 14 different samples of drugs; the result of my analysis was that they were adulterated, at all events that they were not of that purity which the Pharmacopœia of England requires drugs to be: for example, muriatic acid, instead of having the required strength, would sometimes be much weaker, and sometimes stronger; it would contain a large quantity of various elements which the muriatic acid prescribed by the Pharmacopœia should not contain: so as to nitric acid, the same rule applied; the same rule applied to the solutions of ammonia, to oxide of mercury, to chloroform, to strychnine, and to sulphuric ether.

2135. In all those cases do you mean to say that you found those articles inferior to the standard of the Pharmacopœia?—I found the greatest part of the substances which I analysed were not of that purity which the Pharmacopœia of England requires the drugs to be: and often, if the article were a dear article, such, for instance, as ether, I found it diluted; if the article was sweet spirits of nitre, I found it containing prussic acid; I found it containing nitric acid, and therefore not at all in the prescribed condition that it should have been, according to the Pharmacopœia of England.

2136. The Pharmacopœia, I suppose, does not lay down any rule for the manufacture of these different compounds which it is not perfectly easy for the manufacturer to adopt?—Certainly not.

2137. The Pharmacopœia does not expect the standard to be perfectly exact?—No; but it expects the article to come near it. By not purifying these articles, the manufacturer can sell them cheaper to the chemist and druggist, and the chemist and druggist buy the articles at a cheaper price.

2138. Mr. *Gregson.*] Many of those articles are not impure, but reduced in strength, are they not?—Yes, or of a low quality; the quality of the drugs in this country is far inferior to the standard which it should have. There are some instances in which the adulteration is intentional, but it is very rare; the workmen are very apt, in our districts, to take cream of tartar, and I have known cream of tartar to contain from 25 to 75 per cent. of gypsum. I think an inspector of pharmacy is also necessary, so as to maintain the quality of the drugs in chemists' and druggists' shops.

2139. You have had some experience in France?—Yes.

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2140. You received a portion of your education there, did not you?—I spent 12 years there, during seven of which I was under the French Government as a chemist.

2141. Will you describe to the Committee the state of the law in France as to chemists and apothecaries?—The shops of the chemists and druggists in France are every year inspected. In Paris, there is a College of Pharmacy where education in pharmacy is given. There are various professors in that College. Every year there comes an order from the préfet of police, ordering that certain of those gentlemen shall be appointed as inspectors; they go round to all the shops, and inspect the drugs. If the drugs are found of bad quality they are seized, and the man is subject to a certain fine; if he does not pay the fine, or disputes it, the case goes before the court, and he is, generally speaking condemned, there being these three or four gentlemen who are called on to give their evidence. If the party does not pay attention to the first and second notice, very often they will take away his diploma. In the provinces, the Government proceed in a different way; the préfet appoints two or three gentlemen, one from Paris, and two from the country, and those gentlemen go through and examine the shops in the district, being paid, of course, for their labours.

2142. Are the adulterated drugs which are found destroyed?—Always. The grocers' shops are always examined; there is a Conseil de Salubrité, some of the members of which go round and inspect the grocers' shops.

2143. Mr. *Moffatt.*] What are the consequences of inspecting the grocers' shops?—That very often a quantity of food which has been lowered beyond a certain limit is seized.

2144. Mr. *Gregson.*] What is the punishment inflicted?—Generally speaking, fine and destroying the article.

2145. Mr. *Moffatt.*] How many of those fines and burnings take place in the course of a year in Paris?—I should say that they never burn the goods; they are destroyed.

2146. How many fines are inflicted in the course of a year?—They are very heavy; I can say that they are very numerous from my own knowledge. I have, as a chemist, been called on in several instances to defend parties.

2147. *Chairman.*] What is your impression as to the effect of those regulations of the French Government upon the shops of chemists and druggists and apothecaries in France?—There has been a great improvement. If you were to inspect the quality of drugs in this country and in France, you would be astonished to see the difference.

2148. You think drugs in France are much purer than those which are sold in this country?—Yes. There is no fixed period for the inspectors to come; the parties never know when to expect them.

2149. Mr. *Wise.*] Is that an old arrangement of the French Government?—I can speak to 20 years.

2150. *Chairman.*] It is your opinion that, supposing the same system of inspection in this country were to be authorised, either on the part of the local government, or a central body, it would be very beneficial in enabling us to purchase pure drugs, where we now get impure ones or adulterated ones?—A very great benefit in every respect, because it is of most serious consequence to a medical man, not to know the quality of the drugs he uses, and as long as there is no inspection, and the chemists compete one against another, they will be careless, and there will be but little security.

Mr. *Reginald John Richardson*, called in; and Examined.

Mr. *R. J. Richardson.*

2151. *Chairman.*] YOU are the Officer of the Local Board of Health at Newton Heath, near Manchester?—Yes.

2152. Does Newton Heath join Salford and Manchester?—Yes.

2153. Can you give the Committee any information with regard to one particular article of provisions, meat?—Yes.

2154. How many slaughter-houses have you in your district?—We have 13 slaughter-houses in the ordinary way, and till recently, when I first came into office, there were seven where they slaughtered slinked beef, now there are but three.

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2155. What is slinked beef?—It is a class of meat obtained from cows which are diseased and unfit for human food. The animals are subject to various diseases. Some are called ticked; some have the milk fever; some have worm-'ith-tail; some are graped; others are broken-up old cows.

2156. How many of those slaughter-houses for this diseased meat are there in your district?—There are three now.

2157. Have you been in the habit of visiting those places?—I visit them every week, more or less.

2158. Can you state what you have yourself seen?—I am in the habit of going as a sanitary inspector, and taking with me the inspectors for Salford and Manchester, both being practical men. We co-operate together and enter the slaughter-houses, examine the carcasses as they hang up, or as they may be lying about. The opinions expressed by my sub-inspectors are those upon which I rely, they being practical butchers, and men well skilled for periods of 10 or 20 years. I find, upon their word, that it is necessary to seize carcasses whether they be whole or in pieces, and condemn them, as far as my judgment goes, relying upon theirs for the prosecution of parties in whose custody the meat is found. I then apply to a magistrate for an order to destroy. We destroy the food in the best manner we can; sometimes we destroy it by fire, sometimes by tarring it over.

2159. Have you formed any estimate of the number of diseased animals which are slaughtered in your district?—At the present time I should say there are in Newton alone about 12 cows, and probably from 24 to 25 calves, in a week.

2160. That is in Newton Heath alone?—Yes; in Manchester and Salford there are considerably more.

2161. In what condition are the animals when purchased?—They are diseased, having various diseases peculiar to cows.

2162. What is their appearance when they are slaughtered?—They present various appearances, but generally we find them soft, flabby, full of matter; that which should be fat is soft, pussy matter, disgusting to look at.

2163. Are the poor who purchase this diseased meat competent to judge by the appearance of the meat that it is diseased?—No; for this reason, that the meat is often disguised. It is sold very often to them in various forms. A cow when cut up sometimes presents a hard appearance, and sometimes a soft appearance, and sometimes hard and soft in the same animal; if they find any pieces of hard flesh, they sell that as ordinary joints on the stalls, but the softer portion they convert into sausage meat, into polonies, into savory ducks, or saveloys, or German sausages, or collar'd brawn; in fact, in every way they can disguise it. It is frequently seized on the stalls, but seeing we are so very vigilant in that particular, they now resort to the method of disguising it, and selling it to small shopkeepers, who give credit to the poor, and who are obliged to get it from them. In this manner the poor have this food foisted upon them, when they otherwise would purchase good food, if they had the money to purchase it with in the common market.

2164. It is your opinion that this is purchased not so much in the ordinary state of meat exposed in butchers' shops as in the shape of sausages?—Yes, and collar'd brawn, saveloys, and things of that description.

2165. Mr. *Gregson.*] You stated the number of diseased animals killed in the week; what is the number of sound animals killed in a week?—We have 13 slaughter-houses, all of good character, where from 10 to 20 cows are killed in a week.

2166. Mr. *Peacocke.*] Do you mean that those three carry on a trade openly and avowedly in diseased animals?—Nothing else. I might, in fact, reduce the three to one, seeing that the other two, when they have a diseased cow, send it to the one butcher.

2167. You are an inspector?—Yes.

2168. Who appoints you?—The Local Board of Health.

2169. How many of you are there?—There is one to a district of about 10,000 inhabitants; but I take other persons with me.

2170. Mr. *Swift.*] Are they practical butchers whom you take with you to examine the meat in these places?—They are authorised inspectors for the Corporation of Manchester and the Corporation of Salford; originally they were butchers of 10 or 20 years' experience.

2170. They are not now in business?—No; not as butchers.

2172. *Chairman.*] What is given for those diseased animals?—Thirty shillings to 2 *l.* each; they sell the hide, which they consider a sort of perquisite, to pay them.

2173. Is there any other meat used in the manufacture of the sausages you speak of?—Yes, there is veal; they cannot use beef altogether for sausages, it makes them too red; they will not pass for pork sausages without veal being mixed with them. They resort, therefore, to slinked veal, or what are called "tibbies," or "staggering bobs."

2174. What is the effect produced upon the public health by the consumption of this kind of food?—The medical men in our neighbourhood state that they are satisfied in their own minds that the slinked meat sold in that neighbourhood is productive of many diseases which are common there, particularly diarrhœa and scorbutic complaints. There is one class of disease called the ticked animal that is supposed to be contagious, and knowing as we do the powers of vaccination, it is thought that the virus from animals that are ticked will extend to the human frame.

2175. You have had some experience in attempting to put down this dealing with bad meat; have you prosecuted parties?—Yes, several.

2176. In what way do you carry on your prosecutions; do you take them before a magistrate?—Yes, after obtaining an order to destroy we summon them before a magistrate. The law gives the magistrate power to fine them 10 *l.* for every piece of meat. According to the law, in Manchester the fine is only 40 *s.*; in Salford it is 10 *l.* We have driven them out of our district by this 10 *l.* penalty.

2177. Mr. *Wise.*] After those convictions do the public still continue to consume those extraordinary articles?—Yes, they purchase the meat.

2178. Do the consumers of this peculiar character of food go to the same shops after convictions have taken place?—I am sorry to say that they do; when they see me seize a cow they vent their execrations upon the butcher, and yet they support that very class of men by going and purchasing the food.

2179. So that though they are cautioned they still go to the same shops to buy those articles you have mentioned?—Yes; they are forced to go by the system of credit.

2180. *Chairman.*] Do those men pay the fines and go and open their shops again?—They go to gaol, and the other butchers who deal in slinked meat will make them an allowance while they are in gaol.

2181. Mr. *Wise.*] The real cause you presume to be, that many of the lower classes are so poor that they are obliged to go to those shops?—Yes.

2182. *Chairman.*] You look upon the present state of the law as very unsatisfactory?—The law at present is very vague and indeterminate. Whenever we bring a case before the magistrates, we point out the defective state of the law Mr. Taylor and Mr. Dale, my two sub-inspectors, have conversed with me, and we have agreed to what we consider the only method by which we can put it down. We propose to recommend to your Committee that there should be first of all the power given to some central Board to test or analyse the portions of those animals which we may have doubt about. The magistrates, when we produce anything of that kind, put us to our oaths whether we think it is unfit for human food; whereas, if we had a chemical analysis to lay before the magistrates, I think it would do a great deal to put it down.

2183. What do you mean by a central authority?—It cannot be expected that a sanitary inspector can have a knowledge of chemistry sufficient to analyse animal food, therefore some great authority should be constituted.

2184. Do you mean a central authority in London?—Yes, under the Board of Health, with provincial Boards in the large towns; something on the principle on which the country is divided into bankruptcy divisions. I could then seize an animal, and take portions of it to this provincial Board. Another thing which we consider necessary is, we think we ought to have the power to enter upon railways, into railway carriages or trucks, or warehouses, where property of this kind is being in transit. For example, last week 24 pigs were seized, all in a rotten state, in a warehouse in Salford by the authorities; they had scarcely power to do that, but they did it, for the pigs were really a public nuisance. Again, we think we ought to have the power to enter a stable, or barn, or farm

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buildings. We find that cows are diseased and die, and they send for these slink butchers to come and take them away to market in their carts.

2185. Mr. *Wise.*] You want the same power in fact in relation to all articles of food which is now applicable to bread?—Yes. We can scarcely wait for a search warrant under those circumstances. The animal is lying dead in a barn, and the butcher comes and takes it away in the course of half an hour. We then propose that we should have the power to enter mills; we have no power to do so now. We think also we should have the power to inspect carts and waggons on the highway; they bring the meat in carts covered over, and our present law does not enable us to look into those carts.

2186. Mr. *Gregson.*] In short, you only want the power to inspect either carriages or premises in which you have reason to think there is bad meat?—Yes, and also power to take cattle which are being driven upon the highway. Also we should have the power to seize such meat in public markets and fairs.

2187. Is there any other suggestion which occurs to you?—The next suggestion I have to make is, that we should have the power extended, as it is in the Nuisances Removal Act, to all the constituted authorities throughout the country; for example, there are many out villages round Manchester to which we have driven those people by the severity of our inspection, but we have not the power to follow them there.

2188. Have not you the same power which you have in Manchester or Newton Heath?—No; they have not Local Acts, nor is there any other power except the Court Leet.

2189. Have you any further suggestion to offer to the Committee upon this subject?—No.

2190. Mr. *Wise.*] The Committee understand your opinion to be, that the practice of adulteration and selling bad meat is so extensive, that the public cannot protect itself under the present state of the law?—I do not think it can.

2191. Is there a general feeling in Manchester and the neighbourhood that something ought to be done?—I am sure of it. The moment my name appears in the public papers as having made a seizure and obtained a conviction, the public thank me as if I had performed some great patriotic act. They are all very eager to put it down. A large portion of the working classes unfortunately do not take as much care of their own affairs as they ought to do; but the respectable portion of the working classes really does wish to see it put down. They consider it a very important thing to be observed, that this poisonous food is taken into the stomach not by grains or atoms, but by pounds, and they think therefore a great deal of injury is done to the public health.

2192. Have you known any cases of death arising from the use of this bad meat?—No; but I know cases where butchers have cut their fingers, and the wounds have festered and become very serious, showing what the quality of the meat must have been.

2193. Mr. *Swift.*] If you get a second or a third conviction against one of these men, is the fine which is imposed increased?—The magistrates have the power to inflict a fine of 10 *l.* for every case; but we have penalties sometimes to the amount of 20 *l.*, or 30 *l.*, or 40 *l.*; for it is put upon every piece of meat which is found in that condition.

2194. In that case the man generally goes to gaol?—Yes; he is not a man likely to be able to pay the fine, and he goes to gaol.

2195. What is the length of imprisonment which may be given?—Three months in the case of every penalty which is not paid; so that if there are three penalties, there may be an imprisonment of nine months. The magistrates, I am very glad to say, generally inflicts the highest penalty.

2196. Mr. *Wise.*] Have you heard it stated by medical men that the disease called carbuncle has greatly increased, and that the quality of the food has something to do with the increase?—I cannot speak to that. I should wish that the Committee would undertake to summon some persons of that class who are competent to give a chemical analysis of the bad meat.

2197. Is there any other article unfit for food consumed by the people of Manchester besides the bad meat which you have mentioned?—We have in Newton five knackers' yards, and there is only one knacker's yard in Manchester. The reason is, that they have had so much toleration in Newton, and it has been a source

source of great profit to them, because they have the means of selling the best portions of the horse flesh to mix with potted meats.

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2198. Do you mean that horse flesh is used in Manchester in sausages?—Yes. When I go into a knacker's yard and see the hind quarter hung up, I have a strong suspicion as to where it is likely to be taken.

2199. Can you go beyond suspicion; can you state of your own knowledge that horse flesh has been consumed by the people of Manchester?—I can say, for a fact, that the tongues of horses particularly, and the best portions, such as the hind quarters of horses, are generally sold to mix with collar'd brawn, or pigs' heads as they are called with us, and for sausages and polonies. I understand also from those who have been in the habit of making them that horse flesh materially assists the making of sausages; it is a hard fibrine, and it mixes better and keeps them hard, and they last longer in the shop window before they are sold, because otherwise the sausages run to water, and become soft and pulpy. I believe horse flesh also materially assists German sausages; it keeps them hard.

2200. Has this ever been stated in public in Manchester?—When I have my witnesses up in those cases the magistrate frequently asks them questions about it, and the answers get into the public prints.

Mercurii, 2° die Aprilis, 1856.

MEMBERS PRESENT.

Mr. Scholefield.	Mr. Wise.
Mr. Kinnaird.	Viscount Goderich.
Mr. Peacocke.	Mr. Alderman Cubitt.
Mr. Moffatt.	Mr. Knight.
Mr. Gregson.	Viscount Ebrington.
Mr. Swift.	Mr. Otway.

WILLIAM SCHOLEFIELD, Esq., IN THE CHAIR.

Thomas Wakley, Esq., called in; and Examined.

2201. *Chairman.*] YOU are Coroner for Middlesex, and Editor of "The Lancet" Journal?—Yes.

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2202. In your capacity of editor of that paper especially, your attention has been called a good deal, I believe, to the question of the adulteration of articles of food, and other articles?—It has.

2203. Will you state to the Committee, in general terms, what you yourself have done, in order to show the extent to which you have carried your inquiries?—With regard to the details I have done nothing, but in 1851 I brought into operation a portion of the journal which was denominated the "Analytical Sanitary Commission." The object I had in view was to prevent the practice of adulteration, as far as possible, by the exertions of a single journal; but ultimately, my view was to bring the attention of the Legislature to the subject, feeling thoroughly persuaded that without some legislative authority the practice that was in existence could not be prevented.

2204. In the course of the inquiries which were instituted at your suggestion and under your superintendence, you came to the conclusion, at all events, of a very definite character, that adulteration was very generally carried on, to a very great extent, in most of the leading articles of food, and that it was necessary for the Legislature to devise some means of putting an end to so fearful an evil?—That was the inevitable conviction forced upon me by the details which were elicited. I may state, that I believe adulteration to a great extent has existed for a very long period, and I think I can refer in a great measure the origin of the Sanitary Commission to an incident connected with my own life at a very early period. I was articled as pupil to an apothecary and chemist and druggist, at a principal town in Somersetshire; I think it was in the year 1810 or 1811, or 1810, 1811 and 1812; a practice was carried on in

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that establishment which struck me as being of a very dangerous character. We had a small wholesale department, and the chief business of that department was to send adulterated drugs to a wholesale house in London; in fact, regularly to supply that house with adulterated drugs. I recollect four things distinctly which were sent in large quantities, verdigris, white precipitate, a preparation called burnt sponge, and annatto. The practice of the house was peculiar; the drugs sold over the counter, retail and for prescriptions, were always of a first-rate quality as far as I could judge, but the articles sent to London wholesale were certainly very vile fabrications. The preparation called burnt sponge consisted of two pounds of prepared charcoal and six ounces of common salt. The verdigris consisted of powdered sulphate of copper and one ounce of acetate of lead dissolved in three ounces of water and then mixed, and the preparation had certainly a very beautiful appearance. The annatto consisted of flag annatto, half a pound; powdered turmeric, three ounces; powdered lime, three ounces; and soft soap, ten ounces. But frequently when there was no flag annatto to be had, an additional quantity of turmeric was put in with some red colour, which I do not now recollect, but often it was sent out without a particle of annatto. The powder for moulding the annatto consisted of eight ounces of whiting and two ounces of Dutch pink. There was a preparation also sent as calomel, which consisted of the white precipitate of mercury, with an addition of sulphate of lime. There is a gentleman now living at Islington, a retired practitioner, who was a fellow apprentice with me; we have not met but once for 40 years; he is now residing at Lonsdale-square, Islington, and being there on Monday, and having been informed that he was in the neighbourhood, I called at his house, I had a conversation with his lady; she said she had heard him mention these adulterations, and the account which I now give the Committee is one which he sent to me yesterday, stating that he had copied it from a memorandum-book of the establishment; and I must say, that in all the adulterations which have come to my knowledge within the last four or five years, I do not know that there is anything worse than appears upon this paper. I believe, therefore, that the quality of the adulterations practised has not become worse, but that the quantity has immensely increased; I am afraid that adulterations which then were of a very partial nature have now become generally diffused, and in fact strike at the very morality of our commercial operations.

2205. Mr. *Peacocke*.] What is the date of the memorandum you refer to?—The circumstance occurred in 1811 or 1812. This gentleman says, "I find nothing about calomel. This was, I believe, simulated extemporaneously, the chief article being the white precipitate of mercury." There was an incident which made a very strong impression upon my mind. One of the sons of a surgeon of the town called at our establishment for two ounces of burnt sponge, and he made this remark when he obtained it: he said, "We shall not want your rubbish long, for we are expecting our burnt sponge from so and so," mentioning the very firm in London to which we were sending the fabricated article. I believe the gentleman is dead to whom it was sent, but it was an establishment very near to St. Paul's Church. We were absolutely supplying a wholesale house with an article which contained no burnt sponge whatever, and the genuine commodity we were selling retail in the town which was designated by the name of "rubbish." In 1826 or 1827 Mr. Accum's work appeared, entitled "Death in the Pot." The publication of that work brought these things again to my recollection, and I considered, from what I had seen in my youth, that by making known to the world that these adulterations could be practised, without at the same time establishing a system of police for their prevention, the evil would attain an enormous magnitude. I certainly do trace a great increase of adulteration to the publication of Mr. Accum's work; and I believe if your Committee (if I may be pardoned for saying so) were to close this inquiry, and no legislation should follow, the evil would be increased to a magnitude which would be absolutely frightful, because you will show to every dishonest tradesman, without imposing any check, the tricks which can be resorted to in order to make a profit by deceiving his customers. I can assure the Committee that out of doors, as Coroner, I am in the habit of seeing an immense number of tradesmen; and that the result of the Committee's labours is looked forward to with great anxiety.

2206. Can you state at all what is the feeling of such tradesmen, as to whether they would be friendly to any interference on the part of the Legislature to prevent

prevent these practices?—I believe I see about forty tradesmen a day on an average, and every now and then I have had many remarks made to me in consequence of the names of some of them having appeared in our reports in not a very agreeable manner. I believe that the tradesmen generally are most anxious to carry on an honest business, and it strikes me that they would submit to anything in order to get that object accomplished. An honest tradesman now feels that he is placed in a most painful position, in consequence of the dishonesty of some of his neighbours. There is a competition which is very alarming. I say alarming, because it threatens greatly to encourage dishonesty under the present system, and a man feels he cannot maintain his position in trade unless he does what his neighbour does; consequently if his neighbour adulterates, he does so too to agree with him in his prices.

2207. Your opinion is, that a minority of the tradesmen may be what may be designated spontaneously dishonest, but that the great mass of the trade would be fair in their dealings if they were protected?—I believe that is their honest desire.

2208. Mr. *Moffatt.*] Do you apply that to traders generally, or to the druggists only?—I speak of the whole body of traders. From what I hear of their conversation, my impression is that they are excessively annoyed at the present state of things.

2209. *Chairman.*] Have you ever considered at all what course it would be advisable to adopt for the purpose of checking this system of adulteration?—I have thought a great deal about it. I have attended to what has been going on in other countries. My only hope is that some means will be adopted to lead to publicity; that is my only reliance.

2210. Mr. *Peacocke.*] Do you mean in case of conviction?—Even in case of examination without conviction. You have now in operation the scientific department of the Excise. I believe an enormous amount of good would have been done by the Excise, provided there had been publicity in the proceedings they have adopted. I am told there are a great number of cases in which they prosecute, in which there is no publicity given to the facts.

2211. Mr. *Moffatt.*] Are you aware of the system under which their prosecutions are conducted?—Yes; I am aware of compromises, which are every now and then effected.

2212. Mr. *Wise.*] Does not that arise, to some extent, from their only looking at it as a question of revenue, and not as one of protection to the public health and morals?—I am afraid so; their proceedings are based on the low ground; the law should take the highest ground, I think, which could be taken, the importance to the public health and public morals.

2213. We have heard something of lie tea being introduced, and duty paid upon it. It appears that the revenue officers permit the importers to pay a duty upon what is called lie tea?—So it is stated. What I think is wanted is rather a light machinery; one which could be very active and everywhere; which could be moving about in every direction. I do not believe it would be necessary to go to any very great expense to accomplish the object; it seems to me that a moderate expenditure would be attended with success; and, generally, I can conceive that if the requisite powers were conferred upon the General Board of Health; that is a Board already existing, and which has not now a great deal to do, and this labour, it appears to me, might be easily engrafted upon it, without the necessity for incurring any very large expense. Then the question arises, in what mode should the Board proceed? Having the requisite officers, it seems to me that purchases should be made by persons in whose characters you could confide, and that when the examinations had been made, penalties should not in all cases follow where there was adulteration, but that the names and addresses of all the traders whose goods had been examined should be published.

2214. *Chairman.*] Where adulteration had been found, you mean?—In all cases. If you find an honest trader, you should give him the benefit of publicity, just as I did; if he were carrying on his trade with integrity, it would be wrong to withhold from him the benefit he ought to derive from his having, in opposition to undue competition, still resisted the temptation to adulterate his goods.

2215. Mr. *Peacocke.*] Would you advertise those names and addresses in the papers?—I think they should be regularly placarded in public situations within

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a certain circuit. I do not know that it would be any desecration to place them on the doors of churches, and chapels too, the entrances to vestry-rooms, and on the outsides of police courts and stations; I would have them in every situation where they would be likely to be seen.

2216. On town-halls?—Yes; sometimes that might be very annoying to some of the town councillors. As the poor suffer so much from these things, they should be placed at the entrances to workhouses. I believe publicity alone of that kind, constantly kept up, without any intermission or rest, without even a penalty, would almost put an end to the practice, provided the officers were entrusted with the requisite powers. They, without doubt, should have the right of entry at all hours between sunset and sunrise, at least, to every place where they had any ground for suspecting that adulterations were practiced. I think without a power of that kind any law would be very inoperative.

2217. Mr. *Moffatt.*] Would you give that power without a warrant from a magistrate?—I would, certainly; I do not believe there would be any objection raised to it. It strikes me that there is such a desire on the part of tradesmen to get rid of these dishonest practices, that they would submit to almost any inconvenience for the purpose; that is the impression upon my mind, from what has been said to me in the course of very extensive communications with tradesmen.

2218. *Chairman.*] That power of entering into people's houses would, probably only be exercised in the case of manufacturers; in shops there would be no such necessity, because any person may go in and purchase what he pleases?—Exactly so. Then if adulterations were found of an injurious character to health, penalties might be imposed; but I think there is a great objection to heavy penalties; the heavy penalties of the Excise, I think, have been very inoperative; if the penalties were light, there would be less hesitation in inflicting them, while the disgrace would be equal; and if those things were put, not upon the question of revenue, but on the ground of sanitary considerations, and considerations of public morals, people would feel the shame of being convicted.

2219. Would you recommend that there should be any punishment beyond the imposition of a fine in the case of repeated offences?—A person might be imprisoned after three or four convictions, but it strikes me that it would not be necessary; I think you would put an end to the practice in three or four years, seeing what was done by the little Commission I instituted. I fancy an immense amount of good would result in a very short time from such operations as I have described. I think in the first report on coffee there was but one portion out of 15 of the coffee bought which was unadulterated; in only three months afterwards, when the purchases were made, and it was known that the names and addresses would be published, there were 11 genuine out of 42, showing a vast improvement in so short a time; and the coarser materials upon that occasion were found to be omitted, the adulteration almost entirely consisting of chicory.

2220. During the progress of that system of analysis which you established through the means of this Commission, you of course had to deal with a large number of tradesmen in almost every branch of business, and you published a great number of names?—We did, a great number indeed.

2221. Can you state about how many; as many as 200?—Many more than that; there were 82 reports, and I think the names, on an average, must have been from 20 or 30 in each report.

2222. The greater number of those were persons whom you held up to the world as tradesmen who sold adulterated articles?—It was stated that certain articles had been purchased at their shops; it was not stated who had adulterated, but that the goods were adulterated.

2223. That charge, I presume, led, not unnaturally, to a good deal of ill-will on the part of those whose names appeared in your publication?—I think I made more enemies by the publication of that Commission in six months than I had made in my whole life before, and certainly it was the most perilous thing that a man connected with the press ever did; and so perilous that it is one which I shall not willingly undertake again.

2224. There was one peril you of course ran the risk of, that of being prosecuted at law by some of those persons whose goods you reported on?—Certainly.

2225. After the publication of your work, was there one single case of actual prosecution against you?—Not one; there was one prosecution instituted and pursued for some time, but it was ultimately relinquished, and the matter was compromised in this way, that each party paid his own costs; we were to refer the question to arbitration, but there was such a difficulty in finding a competent arbitrator that we were obliged to relinquish it.

2226. What particular article do you refer to?—Cocoa. I had a great number of threats, and a great many tradesmen whom I saw spoke to me when I was on my official duties, some of them feeling that they had been exposed, and they did not regret it, because their neighbours would be exposed as well, and they honestly hoped that it would end in an abandonment of the system of adulteration altogether; but I think I ought to say that the investigations must have been made with the utmost care and the greatest ability by Dr. Hassall and the gentlemen whom he consulted, or it is quite impossible I could have escaped ruin; but I had the greatest reliance upon his integrity; and I must say I had no reason whatever to mistrust him in any act he did. On the contrary, I believe the whole of the inquiries were carried on with the greatest possible fidelity, and all the purchases and examinations were made with the most strict integrity.

2227. Mr. *Peacocke.*] You have spoken of leaving the carrying out of prosecutions in the hands of the Board of Health; virtually, I suppose, that would involve the necessity of the appointment of an inspector by that body?—I am not sure that the term "inspector" is one which I would employ; I presume the Legislature would give the Board of Health the power of nominating officers whom it supposed to be competent to execute the work.

2228. Those persons, by whatever term they might be called, would be appointed locally by the local Boards; would not you have some fear that those persons locally appointed would be deterred by the fear of local influences from performing their duty?—I should not entertain such a fear as that; I should presume that the parties would be properly selected. I was not directing my mind to the local Boards just now. I was speaking of the General Board of Health in London; but in the case of a local Board, I should very much rely on the medical officer of Health, whom the local Board can appoint. He would be so far independent, as I believe he is by law now, that he could not be removed except with the sanction of the President of the Board of Health in London.

2229. Has not this same medical officer a local practice?—He may not have; but generally speaking he is in practice.

2230. Do not you think if he were to pursue prosecutions in his neighbourhood, it would be calculated to diminish the extent of his practice?—No doubt of it; it would be calculated to interfere with his personal comfort to a certain extent; but I take it he would not be the active party; he would be only the superintending party; he would not be brought into personal collision with the persons who were prosecuted.

2231. Have you had any experience of the adulteration of articles of food except in the metropolis?—Only from what I have heard and read.

2232. In the manufacturing districts; can you give the Committee any idea of the state of public opinion upon the subject?—I cannot.

2233. Mr. *Wise.*] You recommended just now that the offenders' names and places of abode, and other circumstances connected with the discovery of the offence, should be published in the newspapers and placarded; are not you aware that an Act of Parliament is in existence in this metropolis, and also in the provinces, which enables that to be done?—Yes.

2234. How do you account for the fact that it is never done?—I cannot account for it; it is done occasionally, but very rarely. I understand that there are a great number of Excise prosecutions which are brought before magistrates; but reports of them scarcely ever appear in the public journals.

2235. Are you aware that in the metropolis there is a law which orders that all bread not made of pure wheat flour shall have a large "M" marked upon it, denoting "mixed"?—Yes.

2236. Have you ever seen loaves so marked in the metropolis?—None.

2237. Does that arise from the want of a public prosecutor, in your opinion?—I have no doubt of it.

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2238. You think that poor men have not the time or the means to undertake such a prosecution?—Decidedly.

2239. Is it possible for any man of even more than ordinary intelligence to detect such adulterations as rice in pepper, and alum in bread; is it possible even for medical men always to test and analyse drugs?—It requires persons to be specially educated for the purpose.

2240. Viscount *Goderich.*] You stated that you did not think the local officer of Health would be brought into direct contact with persons who were guilty of adulteration; would not he be required to give evidence of the fact of his having found adulterated goods upon their premises?—I do not think he would be a witness; he would merely preside; he would constitute almost a Board in himself, and he would have matters referred to him, and if any complaint were made against him, he would say, "This matter was brought before me, and I have only done my duty in investigating it."

2241. He would act in a judicial capacity and not as an inspector?—Quite so.

2242. Mr. *Moffatt.*] Have you made any calculation as to the number of inspecting officers, which would be necessary to carry out your plan, throughout England and Wales?—No; but I have been calculating that I could myself put down adulteration in London, if I had the requisite power under the law, at an expense of 10,000*l.* a year. I form that opinion from what has been done by the private Commission which I instituted.

2243. You speak of adulterations in every branch of trade and commerce?—Yes; in London and the suburbs.

2244. Extending to everything we eat, drink, or smoke?—I believe so; but I must have the requisite power to apply my means.

2245. Into how many trades did the Analytical Commission of 1851 make inquiry?—The Reports were on coffee, sugar, arrowroot, water, chicory, mustard, bread and flour, cocoa, revalenta, oatmeal, tea, milk, isinglass, vinegar, spices, preserved provisions, pale ale, cayenne pepper, curry-powder, fruits and vegetables bottled, potted meats, sauces, jellies, opium, lard, jalap, ipecacuanha, tobacco, snuff, cigars, cheroots, confectionery, porter, and gin. Now, those would refer only to a few trades.

2246. You did not include wine in the trades you have read?—No; wine is not included.

2247. How many persons did you employ in your Analytical Commission?—I confided the whole to Dr. Hassall, who was empowered to obtain such assistance as he might require.

2248. Do you know how many he employed?—No; but he consulted every now and then men of distinguished attainments, and he had the assistance in the chemical department, to a considerable extent, of a very distinguished man, Dr. Letheby.

2249. How many samples did he obtain from different parts of London?—I had an account of them, but I cannot state from memory.

2250. Have you any idea what proportion they bore to the whole number of vendors in the metropolis?—No.

2251. *Chairman.*] What was the course adopted in the selection of those persons whose goods were examined?—My recommendation to Dr. Hassall was to take all persons of a certain trade in a street at a time; not to make a selection. I thought that might be unfair, but to take them all, right and left: for example, the entire body of grocers, or bakers, in a street. I believe that was done in as fair a way as possible. I had nothing myself to do with the selections. I never gave Dr. Hassall the name or address of a single person whose goods he was to examine, from first to last; sometimes I had the misfortune of seeing the names of some of my own constituents in the list, but I never altered a single name or address, from the moment the inquiry was instituted, up to its conclusion.

2252. Mr. *Peacocke.*] Were you in Parliament at that time?—I left Parliament about 18 months after the Commission commenced. It began in January 1851, and terminated in December 1854.

2253. Mr. *Moffatt.*] In stating your impression that with 10,000*l.* a year you could put down adulteration in London, have you made any estimate of the number of men that would be requisite to effect that object?—Yes, I have; I think

I think half-a-dozen examiners, and three or four purchasers, would be quite sufficient.

2254. For the whole of the metropolis?—Yes.

2255. The employment of some ten persons would be sufficient?—I think the employment of some ten persons would be sufficient.

2256. For all the trades in the metropolis?—I think so.

2257. Are you aware how many shops there are in the metropolis?—I do not exactly know the number. I know we have 2,500,000 people; but you will observe that the terror which was produced by the Commission was indescribable. What you have to do is to let something of your proceedings be seen every day and every hour. Let all tradesmen who adulterate or are disposed to adulterate know that the machinery of detection is alive and active, that it is not heavy and cumbrous, but that at every moment there may be a person making a purchase, and if there be an adulterated article the dealer's name may be placarded at once, and brought before the public; the risk would be so great that he would not incur it.

2258. Having appointed your purchasers and inspectors, would you propose to have a responsible Analytical Board?—There should be, without doubt, a laboratory somewhere connected with the Board of Health, and you should have a sufficient number of persons there to work it so as to make the requisite examinations after the purchases have been made.

2259. What remedy would you give in case this Analytical Board made mistakes, or in case the purchasers and inspectors did not do their duty, but showed partiality to one tradesman over another?—I can only give the ordinary remedy of the courts of law, and bringing an action for any unjust injury which might be sustained.

2260. You would propose to give a power of arbitrary entrance into the shop of every vendor of goods in the country, and that the evidence of a single party going in and taking by purchase any quantity of goods should be sufficient to warrant the publication of these semi-official or official placards, by which the character of that individual would be, in a case of inaccuracy, permanently damaged?—After having given to the party the power of having the article examined himself, and appealing to the Board; most unquestionably it would be desirable that he should not be placarded without being heard in his own defence.

2261. What security would you give that the articles purchased at a shop were the same as those which were inspected?—You could only rely upon the character of the purchaser, and on the result of a second call. In every instance where any analysis was made, a portion of the article should be left in case of an appeal, so that it might be identified.

2262. A portion left where?—Retained by the examiner, under seal.

2263. Having stated to the Committee that this course of examination spreads very great terror, and has a very great influence on the well-being and prosperity of tradesmen, would not it be very much open to the abuse that the purchaser of the goods, a man in no very exalted sphere of life, might have offered to him a considerable bribe from a wealthy tradesman to say, "I purchased such goods in such a shop, and here are the samples I purchased"?—He would not be condemned without a hearing.

2264. Assuming the person said, "I did not sell him those goods; come and see what there is in my shop;" it is of course difficult to prove a negative in a case of that kind?—Undoubtedly.

2265. *Chairman.*] You are aware, perhaps, that millers in this country are liable to precisely that difficulty at the present time?—They are.

2266. Mr. *Peacocke.*] And it is a question of evidence, like many other things?—Yes; the inconveniences and annoyances which you may anticipate appear to be of a very alarming character, and may be very distressing, and every now and then inflict great injury; but I believe the time is not distant when the whole practice would be at an end, and I do not believe there would be any important adulterations at all.

2267. Mr. *Kinnaird.*] You must have had some experience in conducting the examinations which have been referred to; were there many appeals from your statements?—Compared with the whole number of the reports, exceedingly few.

2268. Viscount *Goderich.*] I suppose it would have been possible that the persons employed by Dr. Hassall, to make purchases for him, might have been

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bribed in the manner alluded to by the Honourable Gentleman; but you had no complaints of that kind, had you?—Not the slightest; and Dr. Hassall himself, I believe, was so careful and guarded that he generally attended with the parties, and saw that the purchases were made; and I think I have heard him say that he labelled them directly afterwards.

2269. It would be possible for the persons permanently appointed to act in the same manner?—No doubt.

2270. Mr. *Moffatt.*] The two cases are not precisely analogous, I apprehend, because it is quite clear that, in the case of Dr. Hassall, he was bound to act with the greatest care and circumspection, and caution, in regard to the goods he reported on?—No doubt.

2271. Viscount *Goderich.*] Would not the person appointed by the public be equally bound?—Quite so.

2272. And under the same penalty?—Certainly.

2273. Mr. *Moffatt.*] Having an impression that this would be done in London by ten officers, how would you propose to treat the other large towns of England, and the rural districts?—I think, in rural districts, you must place the matter under the local Boards of Health.

2274. To whom should the samples obtained be submitted?—To officers appointed by the local Board, probably presided over by the medical officer of Health.

2275. Would you propose that in each union there should be an Analytical Commission?—It may not be necessary in each union; in each considerable district there should be. There might be one for every borough, and I think the expense would be as reasonable there as in London. In cases of any difficulty, the articles might be sent for reference to the General Board in London.

2276. *Chairman.*] As a Board of Appeal?—As a Board of Appeal.

2277. Mr. *Moffatt.*] You are aware that it requires very highly educated chemists, in many cases, to detect adulteration in articles of food?—Exceedingly well educated as practical chemists.

2278. When you found that articles were adulterated with other substances which did not tend to injure the quality of the article, would you publish the names?—If the article is adulterated, you must take it as a rule that there is deterioration; and I do think that tradesmen should sell all articles by their proper names; I believe it is their anxiety, in fact, to do so, and that trade should be reduced to its proper basis.

2279. *Chairman.*] Have you any objection to their selling coffee and chicory, if they call it coffee and chicory?—Not the least.

2280. Mr. *Moffatt*] It has been given in evidence that the isinglass sold in this country, which is not the pure isinglass imported, but mixed with other matters, makes really a purer and truer isinglass than that which is imported; how would you deal with a case of that kind?—I would call the thing by its proper name; I would call isinglass, isinglass; and I would call that preparation, whatever it may be, by its proper name; but I very much doubt whether the preparation is better than isinglass.

2281. Viscount *Goderich.*] Do you think it honest to call a preparation entirely of gelatine, without any isinglass in it, by the name of isinglass?—Quite the reverse; I do not believe that manufactured gelatine is so easily digested as isinglass.

2282. Mr. *Moffatt.*] The Committee has heard a good of evidence with respect to inferior qualities of goods being sold for the better qualities; would you propose that your inspector should take cognisance of that?—I think not.

2283. It is only when substances foreign to the character of the articles sold are found to be mixed with them, you would propose to report upon them?—In some extreme cases there might be a sign to denote that the goods examined were of an inferior quality, but it would be going too far to impose any fine, or lay any interdict on the sale of an article of inferior quality.

2284. You found, I think, one article which was more adulterated than any other, and that was coffee?—Yes.

2285. Speaking from memory, can you state whether you found any one article in which adulterations were detected which were of such a character as to damage the public health?—In pickles that was frightfully the case, and so also in the case of alum in bread, it is most injurious; with respect to confectionery, I may say, that in 1836 "The Lancet" Commission was commenced.

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Dr. O'Shaughnessy, now in India, a distinguished and able chemist, made some analyses of confectionery which he purchased in London in that year, and the quantity of poison found in that confectionery was absolutely dangerous to life.

2286. Did you find much adulteration in drugs?—Yes, a great deal.

2287. In drugs of a very important character?—Without doubt, such as opium and scammony; there can be no question that something should be done on that subject. Only a few days since, I held an inquest upon a man who had in his pocket when he went into his house essential oil of almonds, which he had purchased at five different shops, four of them labelled "essential oil of almonds," and not one of them labelled "poison." To the same authority you might give power to regulate things of that kind, and prevent such practices.

2288. Does your experience in reference to the general subject of adulteration extend beyond the metropolis?—I cannot say that it does, except from letters I have received. I have had many letters requesting that the Commission might go down to places in the country.

2289. You would propose to put the whole of the United Kingdom under the same treatment?—Yes; the disease is very extensive, and I think the remedy should be equally extensive.

2290. You have made no precise calculation, I understand, as to the staff which would be requisite for the prevention of adulteration throughout the whole kingdom?—I have not.

2291. Mr. *Kinnaird.*] In answer to a question by an Honourable Member, you stated that it required men of very high qualifications to analyse and test drugs and other articles; do you apprehend there would be any difficulty in finding in the principal towns, and in the rural districts, fit men to undertake such duties?—In some small places there might be a difficulty at first, but I am sure young men would be educated up to the requirements in two years, or even in one year.

2292. Might not that difficulty be obviated by there being a reference to the central Board in London?—Certainly, to a great extent.

2293. Mr. *Peacocke.*] If I understand aright, very ordinary tests are sufficient to discover some adulterations; in others more intricate tests are requisite; would not it be a question for the magistrate, whether he considered there was sufficient evidence of adulteration or not; and if it was an intricate case, could not he send the article up to London for examination?—He would hear parties for and against. If the defendant had any witnesses, of course they would be called.

2294. Mr. *Moffatt.*] How would you treat the wholesale druggists and dealers in various articles which you state to be very much adulterated?—In the same way as the retail dealers.

2295. Of course you would find adulterated goods most frequently in the shops of retailers; would you warrant its being stated, assuming you found those adulterations, that the parties alleged the goods were bought of such and such a wholesale dealer, as their justification?—I think, if the retail dealer gave up the name and address of the party from whom he made the purchase, he ought to be exonerated.

2296. Mr. *Peacocke.*] I presume you propose, in the case of those local prosecutions, that the necessary funds should be raised by local rates?—Without doubt, they would come out of the general rate of the place.

2297. Mr. *Wise.*] Do you recommend, adulteration being so extensive, that the principle of protection to the purchaser should be more extensively carried out than it is now?—Certainly.

2298. In one word, you would change the motto of English law, *caveat emptor*, to *caveat venditor*?—That is what is absolutely necessary.

2299. You alluded to an important subject which has been frequently mentioned in this Committee, namely, the mixture of alum with bread. It has been stated that alum is not injurious to health; are you of that opinion?—I am not, certainly.

2300. Can alum in bread be digested, and received into the system?—The extent to which that may be effected is a doubtful matter; there are differences of opinion about it, and I do not see that they can be easily reconciled.

2301. Does not it adhere to the coats of the stomach?—It has not been found in any case that I am aware of. Repeated as the dose is day after day, when persons are, for example, living on bread, it appears to me to be impos-

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sible it could be taken without doing injury. I am afraid that a great number of infantile diseases, more particularly diseases of the mesenteric glands in young children, are referable to improper food.

2302. The Committee has heard suggestions with reference to the prevention of adulterations; has your attention been turned to the system which is carried out in Paris?—Yes.

2303. Are you of opinion that a system of the same kind would answer in England?—I fancy it is more cumbrous than is necessary. I do not think the examiners meet sufficiently often, and it appears the Boards have not a sufficient number of officers. It seems to me that there should be some person daily at work, so that a man who is disposed to adulterate should feel that there is a daily chance of his exposure and punishment. I think in France the system is not sufficiently active; though I am told that the goods sold in Paris are very free from adulteration, but not so in the provinces.

2304. You have heard, perhaps, that adulterations are so extensive in Belgium that they have been obliged recently to pass a law upon the subject?—I have heard so.

2305. Do you think the punishment there is too great, imprisonment from eight days to a year, and a fine of 50 francs to 1,000 francs?—I think that is going too far; I would try a milder punishment here first.

2306. With respect to the sale of drugs, are you of opinion it would be desirable that all chemists and druggists should be licensed?—I think it would be a very good thing; I am inclined to think it would be a very good plan to have every druggist and every professional man licensed; I think a general licence system for all trades and professions would be a very good arrangement.

2307. Are not you of opinion that all respectable druggists would be delighted at such an arrangement?—I think they would be perfectly satisfied with it.

2308. So that by paying five shillings or ten shillings a year for a licence, there might be a protection given to honest tradesmen?—I do not think they would object to a larger sum; there are not more respectable tradesmen than the first class chemists and druggists. Great improvements have taken place in the trade of late years in consequence of the exertions of the Pharmaceutical Society.

2309. *Chairman.*] Their system of licensing, in point of fact, does carry out to some extent the view which the Honourable Member has suggested?—Yes.

2310. Mr. *Moffatt.*] Do they pay for their licences to the Pharmaceutical Society?—There is some payment for the diploma.

2311. Mr. *Wise.*] You have been asked as to the adulteration or impurity of drugs in the provinces; are not you of opinion that very little actual adulteration takes place in the provinces?—I have related instances of adulteration which occurred in a country town 45 years ago; I have never known worse cases than those even in London.

Jacob Bell, Esq., Editor of the "Pharmaceutical Journal," called in; and Examined.

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2312. *Chairman.*] YOU were formerly Member of Parliament for St. Albans?—I was.

2313. You are now engaged in the wholesale drug trade, are you not?—I have been in the drug trade for a great many years, chiefly in the retail trade, with some wholesale trade attached to it.

2314. You are generally acquainted, I believe, with the evidence which has been given before this Committee on the subject of the adulterations both of food and drugs?—Yes.

2315. After hearing or reading that evidence, will you state to the Committee whether, generally speaking, especially so far as the evidence applies to drugs which have particularly come under your own examination, you agree in opinion with the previous witnesses to the extent of believing that there is a very general or a very extensive adulteration in drugs?—A great deal of what is stated in the evidence I have known to be the fact for a good many years; I think there is much exaggeration in the evidence which I have seen printed.

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It is a subject to which I have devoted great attention, and have published a good many papers upon it in connexion with the Pharmaceutical Society, which was established for the purpose of preventing that, among other abuses, by promoting the education of pharmaceutical chemists.

2316. Will you state to the Committee when it was you first began to turn your attention to the question of adulteration?—In the year 1841 the society was established, and in the December of that year the subject was discussed at a pharmaceutical meeting. I perhaps may be permitted to quote from a paper which I read at that meeting, the words which I should otherwise have used as conveying my own opinion at the present time: "Notwithstanding the efforts which are occasionally used to expose the dangers and disadvantages resulting from this evil, very little impression appears to be made; each ephemeral panic is succeeded by an interval of indifference; the inventors of sophistications continue steadily to pursue their scientific researches; the rage for cheap medicine prevails unabated; and the advocates of reform are discouraged and disheartened at their want of success. The subject is one in which every druggist ought to feel interested; it claims the especial attention of the medical profession, and must always be kept in view by the Pharmaceutical Society. Although no one would pretend to deny the prevalence of systematic sophistications, and the frequent sale of drugs which are absolutely worthless, the reproaches which are cast upon the trade in general are, in many cases, unjust, and the reports are often exaggerated. It therefore becomes our duty to investigate the sources of the evil; to discover where the guilt exists to the greatest extent; and to devise, if possible, an effectual remedy. It is well known that a large proportion of the adulterations take place in foreign countries, where drugs are collected by the natives, and brought into a certain state of preparation for the market. The parties concerned in this business are not responsible for the purity or efficacy of their products, and their policy consists in sending out such articles as will meet with an easy sale and produce the largest amount of profit. The quality of these drugs is regulated in a great measure by the nature of the demand; and it may be stated, as a general rule, that, when there happens to be a deficiency in the supply, adulterations are carried on to the greatest extent, the high price being a temptation to fraud. These drugs are imported by merchants, and sold either by drug-brokers or wholesale druggists; and, having been sorted or classified to suit the various demands of the retailers, they pass at last into the hands of the consumers. The public not being competent judges of the quality of drugs, the great desideratum with the majority is a low price; and the retailer, from a mistaken idea that he must humour this prejudice in his customers, finds himself obliged to buy stock of a proportionate value. The wholesale druggist is therefore, among some of his connexion, unable to meet the competition without reducing his prices below the standard of remuneration for articles of the first quality, and hence arises the demand for impure and sophisticated drugs, which are manufactured according to the emergency of the case by the irresponsible collectors in foreign countries." I believe that to be a true and concise statement of the facts.

2317. That was the state of things in 1841; do you believe that that is a fair representation of the state of things now, or what is the modification which has taken place since that time?—I think a considerable improvement has taken place since that time; what I have now read relates only to frauds which are perpetrated abroad, and which are purposely perpetrated in order to meet the demand of the public. There is another circumstance to which I beg to draw the attention of the Committee: "It often happens that drugs are damaged on the voyage, or from accident, or carelessness in their preparation, are comparatively worthless, yet we never hear of a cargo being condemned and destroyed; everything finds a customer at a price." Allusion was made at the meeting to which I am referring, which was one of the regular pharmaceutical meetings, to endeavours, made in America, to get rid of adulteration, and it is stated, "It is not improbable that similar drugs or portions of the same manufacture may have been circulated in this country; but in the absence of an effective pharmaceutical institution, the frauds have escaped detection, in which case we may presume that the discredit has unjustly fallen on the medical practitioners whose prescriptions have happened to be prepared with the impure drugs." I further stated that which I still think is a very important

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part of the case. "The most effectual means of checking the evils under consideration, and which forms a part of the plan proposed by Dr. Christison, is the education and improvement of dispensing chemists, and the extension of pharmaceutical knowledge." "The power of reforming the system rests chiefly with the retail druggist. It is he who comes directly in contact with the public in the administration of medicine, and who has the opportunity of inculcating among all classes the importance of using genuine medicines." "But the druggist is exposed to another difficulty in maintaining the good quality of his stock, namely, the liability to deterioration by keeping; and notwithstanding the utmost care in the selection and preparation of his drugs, he may not unfrequently be disappointed in their efficacy, where the consumption is variable and uncertain. The spontaneous decomposition is in some cases so gradual and imperceptible, that it is almost impossible to decide with certainty whether the article is fit for use or not, and the sensible characters of some drugs, especially in the compound state, are not sufficiently conclusive to enable the chemist easily to estimate the degree of purity or medicinal worth." That is the case in some instances. "It is sometimes argued, that if the consumption of drugs were restricted to those of the finest quality, the supply would not be sufficient for the demand; that the poorer classes, who could not afford to purchase the most expensive drugs, must either be destitute of remedial means, or use such medicines as their circumstances enable them to procure; and that economy in the selection of such articles as are genuine, although of inferior quality, is not prejudicial, but rather advantageous to the public in general. This question should be kept distinct from the systematic adulteration and falsification of drugs; in the one case, the patient is supplied with the best article which he can afford to pay for; in the other, he is imposed upon by the substitution of one substance for another; and, in many instances, the per-centage of foreign matter amounts to more than the proportion of saving in the price, in which case the purchaser would actually have been a gainer in pocket by giving the full value for the finest quality. It is true that every individual in the kingdom cannot be supplied with the most choice and expensive specimens, but it does not follow from this admission that any drugs need be sold, the medicinal properties of which are defective." "Few, if any persons, would knowingly purchase any article of this description; in fact the majority, although they insist upon paying a low price, are scarcely satisfied unless the word 'best' is on the label. There are, in some cases, several descriptions of drug in which a second quality will answer the purpose; but persons often encourage imposition by insisting upon having the best below the fair price, and some dealers therefore sell the second quality as the best. When an article is sold as of a second quality there can be no injury done to the consumer, because in drugs, as in regard to a tree of apples, the best are picked out for those who will pay a high price, but the smaller ones, which are inferior, are sold for as much as they will fetch. It is the same with drugs.

The mischief of defective medicines is not always immediate. It frequently happens that a person, from taking a defective drug, increases the dose, in order to produce the desired effect. Then, upon taking the same prescription to be made up where the genuine drug is used, the person is almost poisoned. That was one of the evils which was pointed out at the time I refer to. At that time the subject was not at all popular; it was a new species of reform; and every one knows that a new kind of reform is always received with indifference, and that it requires a considerable time to induce the public to pay attention to it.

2318. The Pharmaceutical Society was established so far to educate the chemists of this country as to enable them to detect adulteration, and protect themselves against the purchase and sale of such drugs, was it not?—Yes.

2319. Can you state, in a few words, the result of your experience as to the change which has taken place since the Pharmaceutical Society has been established?—A very considerable improvement has taken place in many of the drugs and chemicals which are sold, in consequence of the tests for their purity having become more known, and the attention of chemists having been drawn to the subject; this was facilitated by some articles written by the late Mr. Richard Phillips, the editor of the London Pharmacopœia, which I published in the Pharmaceutical Journal, in the years 1842 and 1843, entitled "Illustrations of Pharmacy in England." The object of those articles was to show the result of the examination of certain drugs and chemicals purchased

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in the way which was done in the case of the Analytical Sanitary Commission; but Mr. Phillips did not make a personal attack upon individuals; he suppressed the names; he only stated No. 1, No. 2, and No. 3 contained such and such impurities. I have here copies of the journals in which they were published, spreading over about six months. During that time a number of the impurities were stated and exposed by Mr. Phillips, which have been under the consideration of this Committee; among others I may mention the impurity of oxide of zinc, which was generally contaminated with carbonate; also milk of sulphur, which about 20 years ago it was difficult to obtain, except with a considerable amount of contamination of lime, because the process at that time adopted by the sanction of the old pharmacopœia caused a quantity of lime to be mixed with it; it was precipitated with sulphuric acid, which threw down the lime as well as the sulphur. I remember having great difficulty in getting a manufacturer to make some for me which had none of this adulteration.

2320. In fact, that was an error or imperfection in the manufacture?—Yes. In consequence of the exposure which was made by the Pharmaceutical Society chemists began to ask for pure milk of sulphur, and now I do not know where to get a sample of the old kind.

2321. What you state with regard to that article is true generally of drugs, that the quality of them has materially improved since the establishment of the Pharmaceutical Society?—Materially so; in the case of scammony, we never saw pure scammony 20 years ago; the first sample of scammony I saw which was pure I did not recognise as scammony at all, it was so different from that which we were accustomed to see; even now we could not obtain a sufficient supply of that which is absolutely pure, but if the demand were to extend, the persons abroad would make it to suit the demand; whatever demand exists, the supply follows as a matter of course.

2322. Mr. *Wise*.] Am I correct in assuming with regard to scammony, that the article varies in value as much as from 7 *s*. to 8 *s*. a lb. to 48 *s*.?—It does.

2323. So that it is a question of great importance whether the scammony used for a patient be of the first quality or an inferior quality?—It must make a great difference, because a larger dose must be ordered if an inferior drug is used.

2324. From your knowledge of the trade, do you think that scammony of the lower value is used to a very great extent?—I believe the medium value is chiefly used; it is mixed abroad to any price. The proportion of flour or chalk, or other ingredients which are added, depends entirely upon the price; and when the wholesale druggist in England writes to his correspondent, the maker at Aleppo, or wherever the manufactory may be, he states the price, and it is mixed accordingly.

2325. The article of scammony, then, would not come under the denomination of articles as to which there was no responsibility in preparing them; there appears to be some kind of responsibility there?—Scammony is rather a leading article; the persons who make it are men of some degree of importance, and they are, to a certain extent, responsible to their customers; but the responsibility is only that the manufacturer must give satisfaction to the purchaser; if the purchaser is satisfied there is no other responsibility.

2326. Do you think it would be any advantage to the public and to the wholesale and retail druggists of this country, if there were some inspection or supervision upon the importation of those various articles?—I think there should be something of the kind; and upon that subject I shall come presently to speak of some regulations in America, which it would be desirable to introduce here. There is another article which I would refer to—senna. Some years ago almost all the senna imported was adulterated with cynanchum, a leaf resembling senna in general appearance, but to the botanist there was a considerable difference. Professor Christison directed my attention to that in 1842, and I wrote a paper upon the subject, which was discussed at the Pharmaceutical Society. It is a question which we generally ask of candidates who come up for examination. When the drawer of senna is presented to them, we say, "Is there any adulteration in that; pick out a leaf of cynanchum?" The fact is now so generally known, that a bale of senna which is much adulterated in that way will scarcely obtain a purchaser; therefore, we scarcely know where to find any cynanchum. It has to so great an extent

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ceased to be imported in consequence of the demand for that particular class of senna having been reduced. I mention that to show that by diminishing the demand for anything which is adulterated, the obvious effect is that a purer article is supplied.

2327. *Chairman.*] And in ample quantities?—Yes. I think there ought to be a great distinction made between three causes of impurity in medicines; first, a fraud by the intentional substitution of one thing for another, or the mixture of one substance with another; second, the sale of articles which are injured by keeping, which is an act of carelessness as much as anything else; thirdly, the want of skill in the manufacture of an article. There are many extracts which may be quite genuine, but very inferior in quality to other extracts, simply because the maker was not sufficiently acquainted with certain parts of the manipulation, or was not sufficiently careful to attend to the quality rather than the quantity of the product. By boiling a root a great deal, and then taking it out and bruising it and boiling it again, and various other modes, a large product may be obtained which is quite genuine, but not so good as that which is obtained by a very careful process by only one maceration, or just so much as to take out the active principles, without taking the albuminous portions, or the starch and the fibre of the root, which would diminish the strength of the extract.

2328. In drawing a distinction between those different classes of impurities, do you mean to imply that in the one case, that of an absolute intentional fraud, you would be disposed to apply a legal remedy in the way of punishment, and that in reference to the other two classes, you would leave them to be prevented by the superior education you are now giving to the chemists of this country?—I think with regard to the third class, the want of skill in the manufacture, the public must take care of themselves; but in regard to the first and second class, fraudulent adulteration and the sale of an article which has been spoilt in the voyage, and is unfit for use, it might be proper that if it can be brought home to a person that he has intentionally sold articles which are unfit for use, there should be a facility in procuring his punishment.

2329. Mr. *Wise.*] How would you treat a question of this kind; assume that a portion of ipecacuanha which is damaged so as to be unsaleable is made marketable by being ground?—That is the case sometimes.

2330. Into what class would you put that?—If it could be proved that it had been used to mix with the sound ipecacuanha so as to reduce the price and increase the profit, that would be one of the frauds which I think should be amenable to the law.

2331. Mr. *Otway.*] You might deal with it in the way you do with a man who sells putrid meat, which is afterwards converted into a beefsteak and eaten, might not you?—I think it is equally an offence to sell it, whether it is ground or unground; in one case it would be easy to detect it, and in the other it would not; if it were mixed with a little good ipecacuanha, to impart to it the smell, it would be more difficult to detect the impurity.

2332. Opium is very much adulterated, is not it?—I believe it is; still genuine opium can be obtained by those who like to go to the market and give the price for it; it is chiefly a question of price; also it requires a little skill to judge of it; an opium dealer or one who is in the habit of making morphia will judge very well by his experience in continually handling it, and will form a much better opinion than one who only buys a pound occasionally for retail use. The same observation applies to bark; barks are frequently sent over which are worthless; there are not perhaps half a dozen persons in the kingdom who are able with any degree of certainty to judge of the precise condition of a bark, as to the amount of quinine it will yield.

2333. Mr. *Swift.*] Is not that an omission in the education of gentlemen in your profession?—You may carry education up to a certain point, but this requires a person to be always in the market; there are such men as Howard, of Stratford, who are appealed to as authorities, and some French chemists who are great connoisseurs on the subject, but it is extremely difficult to form an accurate opinion as to the precise proportion of quinine which might be obtained from bark.

2334. Mr. *Otway.*] Are you of opinion that a great deal of adulteration takes place among drug grinders?—I think some adulteration does, but not nearly so much

much as was the case some years ago; it was formerly the custom to send 14 pounds of a drug to be ground and receive a quarter of a hundred weight, and sometimes half a hundred weight back; but that custom, I believe, is entirely discontinued.

2335. Mr. *Wise.*] Have you not heard, and is not it a frequent occurrence, that persons are sent in charge of drugs which are to be ground, so as to watch that no adulteration takes place?—I have not heard of that as a frequent occurrence. I should be very sorry to employ a person to grind drugs who required looking after in that way; it may have been done. Till very recently, it was always the case that persons expected to receive the full quantity back in powder, without any allowance for loss in grinding; but within the last 15 or 16 years, I believe that has been so completely exposed, that a better system has been introduced. I saw in the evidence the other day, an allusion to gentian compositus. I may mention that I never saw powdered gentian ordered in a prescription. The powders referred to were chiefly used as horse and cattle medicines. I do not say that by way of justification, but it is the case that the powders to which I refer, where adulteration is practised to such an extent, are chiefly for that purpose.

2336. With reference to the use of English rhubarb in this country, are you of opinion that it is used extensively instead of Tartar or Turkish rhubarb?—I believe it is to some extent, but I have not tried it, and am not competent to form an opinion as to the medicinal properties of it. It is a great deal cheaper than the other qualities of rhubarb, and if it can be obtained to answer the purpose, I do not see why we should send abroad for a thing which we have the means of growing in this country.

2337. Is it reputed to be so active as the other?—It is not; but it is considerably improved by cultivation.

2338. Is damaged rhubarb employed at all?—I believe it is; there is a great difference in the quality of rhubarbs. I have frequently observed it when sitting at committees of a Board of Guardians, and seeing samples brought in.

2339. There is East Indian rhubarb used, is not there?—Yes. I conceive that medicinally there is not much difference between the East Indian and the Turkish rhubarb. It is generally considered that East Indian is quite as efficacious medicinally, if it is in a good condition.

2340. You alluded to the article of bark; do you suppose that it is mixed with spurious barks to any extent?—I think it requires a good deal of skill to collect the bark. Persons go into the woods and they have to select the best tree, and then to get the bark in a proper state; and a person who is not very skilful may, without any intentional fraud, get a considerable quantity of bark which may be of very little use; but it requires a great deal of skill in the purchaser to detect the difference.

2341. Am I correct in supposing that any adulterations of a still more serious kind are practised, such as mixing them with farinaceous powders which are coloured?—I believe that has been done; but I never had any case come under my notice.

2342. Mr. *Otway.*] I understand that a chemist in this country, before he has the power to dispense drugs, has to obtain a certificate of certain qualifications; is that the case?—No; any person may be a chemist without any education at all. He may be a shoemaker to-day and a chemist to-morrow.

2343. And he may dispense drugs of every description?—Yes. He must not call himself a pharmaceutical chemist or a member of the Pharmaceutical Society, unless he is on the register.

2344. He may call himself a chemist?—Yes; we have always maintained that any attempt to put a stop to fraud in drugs would be perfectly useless as long as any person, however ignorant, was allowed to deal in them, and no provision was made for the education of that class of persons.

2345. Any man in this country who chooses may set up a chemist's shop to-morrow, and may dispense all drugs and poisons without any restriction whatever?—Yes. There are a great many persons who are qualified; but if they are so, it is because they think proper to qualify themselves, it is not because the law compels them.

2346. Mr. *Gregson.*] Do you think there are many such ignorant chemists as you speak of?—There are some. I have had a fitting-up order from a schoolmaster, who knew nothing about chemistry; he wished to open a shop

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because he thought there was a good opening in the neighbourhood. I declined his order.

2347. Mr. *Otway.*] Are you aware of the custom of other countries in regard to this matter?—Yes; I have paid a good deal of attention to it. In France no person can act as a pharmacien unless he has been examined and received a diploma. In Germany they are also very strict. In some of those countries the number is limited, and the price which is to be charged for everything is regulated by law. Consequently every person who is in business is quite sure to have the means of obtaining a living without resorting to any of those practices to which competition drives people in this country.

2348. And of necessity the means of punishment are much more efficacious, and the means of detection more facile?—Yes. I endeavoured in the Pharmacy Bill, before it was passed, to introduce a provision that no person, except those who were already in business, should be permitted to carry on the business of a chemist unless he had been examined. That was, however, altered in the Committee of the House of Commons; and it was understood to be entirely a permissive act to give a professional status to those who chose to come under its operation, but to have no prohibitory power over any person, however ignorant in regard to the sale of drugs.

2349. Does any suggestion occur to you with regard to the restriction of the sale of poisons by chemists?—I believe the only safeguard the public can have is, that the chemist should always label everything "Poison"; that he should never sell to a person any poison unless he knows the person understands the use of it; and if it is to be taken inwardly he ought to be fortified with the prescription or order of a medical man.

2350. *Chairman.*] Have you read the evidence of Dr. Moore Neligan on the subject of dispensing poisons in Dublin?—Yes; I read a brief report of it in one of the newspapers. I have a different opinion upon that subject from the doctor's, because I think any rule of that kind, unless it can be made absolute, is worse than no rule at all. If the public have the impression that anything which is poisonous is in a square bottle, it follows that they will believe that anything which is not in a square bottle is perfectly safe; and then if there happen to be no square bottle at hand, and poison be put into a bottle of a different shape, they are exposed to all the danger which would exist if there were no plan of the kind in existence.

2351. Viscount *Goderich.*] You think the risk from carelessness, in putting poisons into wrong bottles, would be greater than the advantage which would be derived?—Yes. I think the risk from the habit of attributing security to a circumstance which is merely accidental would be an increase of the evil; and that by far the best safeguard would be that of placing "Poison" upon everything which is poisonous.

2352. The same objection would probably apply, you think, to putting different-coloured labels upon bottles?—Yes; I think if all the nurses in the kingdom were told that any liquid which had a green label was dangerous, and everything which had not a green label might be taken with impunity, it would lead to great risk. If you could make every chemist put a green label upon poisonous things, it might be a safeguard; but it is impossible to do so, and therefore in every case where the rule was disregarded the danger would be increased.

2353. Mr. *Otway.*] I understand the restriction which you have suggested, in answer to my question, to be a matter rather of feeling than of anything else; can you suggest any legislative measure by which chemists might be restricted?—I do not see how that could be done; I do not know where to draw the line between poisons and drugs which are not poisonous.

2354. Would it be better that a chemist should be prohibited from selling strychnine, except under the authority of a medical man whom he knew?—I should see no objection to that; but there are many other poisons quite as bad as strychnine.

2355. *Chairman.*] Would it be difficult to classify a number of poisons which should come under such a regulation?—Perhaps it might be done; and in some places abroad no chemist can, without the order of a medical man, sell certain poisons which are on a particular list.

2356. Mr. *Gregson.*] Are not many poisons now prescribed by eminent physicians in small quantities as medicines?—A great many; some of our most efficacious medicines are poisons.

2357. Mr. *Wise.*] How would the system work, of having one large chemist in every town, as is the case in Norway and Sweden?—I do not think that would suit our free trade notions at all; I think for the sale of some poisons a medical order might be required. The Arsenic Act was passed with the view of making it more difficult to obtain arsenic, and I think it has had some effect.

2358. *Chairman.*] Are there any further articles which you desire to refer to?—I do not know that I have anything very important to add.

2359. Mr. *Swift.*] Do you know whether cocculus indicus is imported into this country in large quantities?—I believe it is, but I have not referred to the returns lately.

2360. Do you know what it is usually used for?—I believe it is generally used for the adulteration of beer.

2361. Do you know any other purpose to which it is applied?—I am not aware of any other purpose; there are persons who are called brewers' druggists.

2362. To whom they resort for the purchase of such articles?—I believe so.

2363. Do you know whether the price of the article has augmented of late years in consequence of the large demand for it?—No; that has not come under my knowledge.

2364. *Chairman.*] I will now call your attention to what took place in America, I think in the year 1847, showing that at that period the attention of medical men in America was called to the extensive adulteration of drugs; the Committee would like to know what were the steps which those medical men took in appealing to the Legislature, and what the Legislature did in order to meet that appeal?—I may mention that I had been in correspondence many years before this with the chemists of America, and we had been mutually stimulating each other to try what we could do to produce an improvement in the quality of drugs, as well as in the education of those who are engaged in the drug business. In the year 1847 a circular was addressed by the President of the College of Pharmacy of New York, in the form of a memorial to the American House of Representatives, the object of which was to obtain the introduction of a law to prevent the importation of drugs which were unfit for use.

2365. Will you state to the Committee the heads of that circular, and can you also put in the whole circular for insertion in the evidence?—The circular details a variety of adulterations which had taken place; there is the report of the composition of a substance sold as blue pill, containing mercury, earthy clay, Prussian blue, and sand; oxide of zinc is generally carbonate of zinc, and imported at a price which precludes the possibility of the necessary preparation. Opium is often invoiced at one-third the value of the good quality, and is found on examination not to be worth even that; the same may be said of scammony. Most of the foreign extracts are not what they profess to be, and cannot be relied on in the treatment of disease. Salts of quinine and morphine, and all the more costly chemicals, are greatly adulterated. In the number of the "Pharmaceutical Journal" in which I published this, I made these remarks, which appear to me to give a concise idea of the system which was pursued: "It appears to be a general rule that articles of inferior quality are 'good enough for the foreign market;' and, while the English consumer suffers from this imposition on his credulity, in reference to foreign productions, the English manufacturer pays off the foreign consumer in the same coin. The most effectual remedy against this international robbery would be a regular and systematic inspection of imported drugs on their arrival into the country. For this purpose a competent Board should be appointed, having authority from the Government to destroy such articles as could be proved to be unfit for use, and, in flagrant cases of imposition, to inflict a suitable penalty. If the pharmaceutical chemists in this country were properly constituted and empowered by Act of Parliament, it would naturally come within the province of that body to assist in a task so important to the credit of its members and the welfare of the public. By this means vast quantities of spurious or deteriorated drugs would be kept out of the market, which, in the present inefficient state of the law, are extensively circulated, and eagerly bought by those who delight in anything which is cheap." That was my opinion in 1847, and it is my opinion at present.

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2366. This memorial to the Senate and House of Representatives called, I think, upon Congress to pass a law effectually to resist what they call "the villany of manufacturers and importers of base compounds, counterfeit and misnamed articles, intended for medicine, so far at least as it can be done, in their passage through the custom-house, by competent inspection, forfeiture and exposure of the shame now borne in secret by the participators in this traffic"?—That is the object of it. At the same time this was going on, I went with a deputation to the Secretary of State, at the Home Office, on the same subject, and applied for some assistance in regard to the qualification of pharmaceutical chemists, the object being to introduce the Pharmacy Act, which at that time was only in prospect. The result of the application was merely a polite reception, but nothing more, which is what we have experienced for a great many years.

2367. Will you state to the Committee what was the result of this application to Congress on the part of the medical faculty in New York?—Yes. In September 1848 I published a report of the Act which was passed in consequence of this application to the legislature. I may put in this Act as evidence. The first clause is, "Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, that from and after the passage of this Act, all drugs, medicines, medicinal preparations, including medicinal essential oils, and chemical preparations, used wholly or in part as medicine, imported into the United States from abroad, shall, before passing the custom-house, be examined and appraised, as well in reference to their quality, purity, and fitness for medical purposes, as to their value and identity specified in the invoice." Section 2, "And be it further enacted, that all medicinal preparations, whether chemical or otherwise, usually imported with the name of the manufacturer, shall have the true name of the manufacturer, and the place where they are prepared, permanently and legibly affixed to each parcel, by stamp, label or otherwise; and all medicinal preparations imported without such names affixed as aforesaid shall be adjudged to be forfeited." The third section enacts, "that if they are found, on examination, to be impure, they shall not be allowed to pass the custom-house." The fourth simply refers to the power of appeal of a person who may think that he is unjustly accused. On the whole, the Act appears to me to be a good one, and the result has been quite as satisfactory as might have been expected. Though nothing that can ever be contrived will prevent all fraud, it has, to a certain extent, diminished it.

2368. Your correspondence with persons on the other side of the Atlantic satisfies you that the effect of that law has been beneficial?—I am so informed; and that is strongly confirmed by a report which was published in the year 1853. On the 1st of February in that year, I published an account of the organisation of pharmaceutists in America, which they had been for some years endeavouring to bring about; and I think they were in some degree stimulated to make further progress by what we were doing in this country; they succeeded in establishing a regular association, which meets annually to discuss various subjects, and among others the adulteration of drugs holds a prominent place. At one of the meetings there was an extract from a report read from the inspector of drugs in New York, M. J. Bailey, M.D., special examiner of drugs, medicines, chemical-medicinal preparations, &c. To show the efficacy of the inspection, here is a list of certain articles which were found to be unfit for use. He says, "The following are the more important articles, with the quantities annexed, that I have since rejected and condemned, as not of the requisite strength and purity to be safely and properly used for medicinal purposes; viz., senna, 31,838 lbs.; jalap root, 37,121 lbs.; rhubarb root, 5,782 lbs.; sarsaparilla, 65,374 lbs.; mezereon bark, 1,353 lbs.; opium, 3,164 lbs.; kino, 230 lbs.; scammony, 1,483 lbs.; aloes, 12,375 lbs.; squills, 1,626 lbs.; spurious Peruvian bark, 304,135 lbs.; Spanish saffron, 360 lbs.; ergot, 475 lbs.; camomile flowers, 1,896 lbs.; assafœtida, 3,700 lbs.; worm seed, 230 lbs.; colchicum seed, 2,246 lbs.; valerian root, 650 lbs.; guaiacum, 9,300 lbs.; cream of tartar, 7,673 lbs.; magnesia (carbonate), 2,867 lbs.; magnesia (calcined), 1,560 lbs.; althæa root, 1,117 lbs.; liquorice root, 9,430 lbs.; bistort root, 140 lbs.; gentian root, 7,572 lbs.; gentian root (in powder), 430 lbs.; lavender flowers, 3,042 lbs.; poppy flowers, 190 lbs.; hellebore root (white), 460 lbs.; Pareira brava root, 730 lbs.; cantharides, 1,276 lbs.; creosote,

Creosote, 140 oz.; bromine, 430 oz.; sulphate of quinine, 3,200 oz.; iodine, 6,864 oz.; hydriodate of potass, 3,720 oz." Those were articles absolutely rejected as being useless.

2369. Viscount *Ebrington.*] What happens to those drugs after they are condemned?—I believe they are destroyed.

2370. Mr. *Wise.*] Does this stringent law of inspection in bond prevent an extensive adulteration of drugs in the United States?—It prevents a particular class of fraud, which had become so common that the term "good enough for America" was a sort of proverb.

2371. Still, I understand, drugs are extensively adulterated in America?—I believe they are, but all that can be done is to find out a channel through which a check can be placed upon it, and as soon as a new species of ingenuity is invented, to put a check there; we can only temporise by obtaining evidence of the existence of fraud, and applying the remedy where fraud exists.

2372. Are you aware whether any other system of prevention is pursued?—Great efforts are being made by the pharmaceutical chemists themselves, by the introduction of a code of ethics among themselves, by exposing adulteration whenever they detect it, and by promoting a professional feeling and the general improvement of the body.

2373. Is that general in the United States?—Throughout the whole of America once a year they meet. Delegates go from one part to another for the purpose of discussing these subjects, and introducing a better system in each locality.

2374. That discussion has a considerable tendency to prevent frauds, you think?—Yes; persons find that by being honest they have a better chance of obtaining business than by practising fraud.

2375. Are you aware whether the same system is pursued in America of sending prescriptions to druggists to be made up?—Yes. There is a college in New York, and also in Philadelphia, where persons are examined, and having been examined they are more respected in proportion.

2376. Do you see any objection to the chemists and druggists generally in the United Kingdom having licences?—I see no objection to it. There is a licence which is a great nuisance, the patent medicine licence. That is a very absurd thing; but I think they would have no objection to have that removed, and have a licence of a more reasonable character.

2377. Attaching penalties to the offence of selling adulterated articles?—It would require a great deal of consideration as to the mode in which it should be regulated. I think if they have a certain privilege they would be willing to submit to a certain amount of restriction.

2378. Mr. *Swift.*] Does the inspection cease in America with the importation; is there no Government inspection after the drugs are introduced for consumption?—No; that is one source of difficulty. There is also a difficulty in having inspection at every port through which drugs pass.

2379. *Chairman.*] The principal ports of America are designated in the Act of Congress, are not they?—Yes.

2380. Mr. *Swift.*] The Act gives no power to inspect drugs when once in the chemist's shop?—No, not unless there is *primâ facie* evidence of fraud.

2381. Mr. *Gregson.*] Are any drugs produced in the United States?—Yes, there are some large manufacturers of chemicals, many of whom export drugs into this country. At the time of the Great Exhibition they had a large display.

2382. Mr. *Otway.*] Do the chemists in America grind their own drugs?—I believe they do in many instances.

2383. Viscount *Ebrington.*] As the result of your experience and correspondence and consideration of the matter, what measures are you inclined to recommend the Legislature here to adopt; the Committee understand that you advocate an inspection in bond in the first instance?—Yes.

2384. Do you think it is desirable to follow up that inspection by an inspection of drugs in the retailers' hands also?—I think it is possible that some advantage might arise from the power of inspection, which has hitherto been vested in the College of Physicians; it has never, however, been carried to such an extent as to produce any real benefit. I believe the greatest safeguard consists in the improved education of the persons who deal in medicines, and in such means as may tend to raise their position, and teach them that it is

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their interest as well as their duty to sell as good articles as they possibly can. I believe, in that respect a very great improvement has taken place, and is taking place every day, from the improvement of the qualifications of the pharmaceutical chemists.

2385. Should you be disposed to rely upon that gradual improvement from within, or do you think that, for instance, giving greater efficiency to the inspection of the College of Physicians, which you have described as to a considerable degree inoperative, would be more desirable?—I would not altogether rely upon what is going on within, because I think it might be well that there should be some easy and inexpensive means of punishing direct and absolute fraud; and I think that the respectable chemists would assist the Legislature in bringing to light anything which was so disgraceful as to injure the character of the body. In that way, all respectable chemists would assist the Legislature in exposing that which is the means of those unpleasant statements being made, reflecting upon the entire body.

2386. You look upon exposure as even more important than the actual punishment of the party?—I think the exposure is a very severe punishment indeed; it may ruin a man's business to have it reported that he is in the habit of selling adulterated articles.

2387. Would you prohibit altogether the importation of damaged and inferior drugs, though they may contain some of the requisite elements?—I think it would require a considerable amount of judgment in a person employed as inspector; it would be very desirable that a scientific man who is competent to judge should be employed to assist in a case of doubt: there may be a drug which is unfit for the ordinary purpose for which it would be used, but it might be fit for some other purpose.

2388. Damaged drugs, after being subjected to proper processes, might supply, though in smaller quantities, certain medical elements in perfect purity?—Yes; there are some damaged drugs which might be used, from which to extract some essential principle; for instance, you might get strychnia, or some of the alkaloids, from a drug which would be quite unfit for sale by itself, from its having been worm-eaten or in other respects injured.

2389. Have you considered the result of prohibiting the importation of damaged drugs as necessarily raising the price of those essential principles in the drugs, by preventing the employment of any but uninjured, and therefore the dearest, drugs in their production?—I do not think that such prohibition would produce a serious effect in that way; I think if there were a demand, a supply would come to meet it.

2390. If every country prohibited the importation of drugs which were at all damaged, a quantity of damaged drugs still containing a large proportion of useful and beneficial principles would be altogether wasted and neglected; whereas by inspection in the druggists' hands, the object would be to secure the public against receiving drugs in a damaged state?—A good deal of opium is imported which is unfit for sale as opium, but it may contain a sufficient quantity of morphia to make it quite worth while for manufacturers to purchase it; but then it adds to the difficulty of the case. It was always a difficult case, and always will be; all we can do is to approximate towards a mode of checking the evil; we shall never entirely prevent it.

2391. The objection to the sale of impure drugs does not necessarily apply to the importation of damaged drugs; has it occurred to you that there is any reason why a system of inspection of articles before they come into the hands of the public, should be on the whole preferred to a system of inspection of articles on their way to the chemists and druggists who prepare them for the use of the public?—I do not see how an inspection could take place, unless it were at the docks during the time a drug is being imported, or in the shop to which any person can go and ask for a certain article, and pay his money for it. Having obtained it, he can examine it, and if he find it impure, if it can be proved that the person who sold it, did so, knowing it was unfit for sale, he ought to be liable to punishment. I think it ought always to be the case that it should be required to be proved that the person knew the article to be bad.

2392. Mr. *Gregson.*] The ordinary custom-house officer is not capable of making such an inspection, is he?—A great many persons have been educated, and there is a school in London for the education of persons, to assist in the

Inland revenue; and if there were such officers required, it would be easy to multiply them to any extent.

2393. Mr. *Knight.*] It would be almost impossible to decide whether a person knew that an article was an inferior article, would not it?—It might be very difficult, but when you bring into operation a penal law, I think there ought always to be some consideration for the existence of a doubt, and the doubt ought to be given in favour of the accused.

2394. Viscount *Ebrington.*] Do you think it would be possible, with proper precautions, to give the country the benefit of the damaged drugs to be used, not in their damaged state, but for the preparation of perfectly pure medicaments to be extracted from them?—It is quite possible.

2395. It is undesirable that damaged opium should be sold as good opium to the public, but there may be a certain quantity of morphia to be extracted in perfect purity from damaged opium; have you considered how the public health may be protected, and yet the public not be deprived of the advantage of the importation of damaged drugs to be used for the purpose of furnishing only pure extracts?—I believe that no inspection could insure everything imported being of the first quality, but it would certainly prevent the importation of a great many things which are now imported, and which are absolutely worthless. When Sir Robert Peel took off the duty from a great many drugs, which many of us thought was a very injudicious measure, there were a number of perfectly useless drugs, jalap for example, which had been in the docks for years because they were not worth the duty, but which were immediately sold and went into stock; we suppose that they went to the mill.

2396. Mr. *Wise.*] You have alluded to what has been termed the rage for cheap medicine; do you think that that rage has a tendency to increase the consumption of what are commonly called quack medicines?—There is a very great rage for quack medicines; people do not mind what they pay for quack medicines; for secret medicines there is an opportunity of charging whatever persons like to ask for them; the demand for cheap medicines exists to a great extent, but that does not so much apply to quack medicines; where the imagination is concerned, and people are determined to have the thing, and they can get it at a particular price, they pay the money. If you want a box of Dickson's pills, you must pay 2*s.* 9*d.*, and the public pay it; if it were to be had for any price, from 2*s.* 9*d.* to 1*s.*, the great majority of persons would prefer giving 1*s.*; so it is with ordinary drugs.

2397. Do you think the adulteration of drugs arises from the demand for cheap medicines, or from intentional dishonesty on the part of the persons selling?—From both; the primary cause being the demand for cheap medicines. There are some persons who will always endeavour to increase their profit by however unfair means.

2398. Do you think there should be any check upon the sale of these secret medicines?—I think they do an immense deal of mischief; they are given indiscriminately for every complaint, and it is impossible they can be useful to the extent to which they are recommended in the printed bills which accompany them.

2399. Is it possible to discover what they are made of?—In some cases they can be partially analysed, but vegetable substances cannot be analysed with the accuracy with which minerals can.

2400. *Chairman.*] Are you of opinion that any law could be made applicable to the sale of what are called quack medicines?—I think that is a subject which requires a great deal of consideration; the extent to which quack medicines are encouraged by the Legislature, and a tax levied upon them, is very great; they are encouraged for the sake of the tax.

2401. Viscount *Ebrington.*] It is your impression that the Royal arms and that kind of insignia on the box has the effect of encouraging the uneducated to purchase what is deleterious?—There is a disposition to buy anything which has a mystery attached to it.

2402. Mr. *Gregson.*] Does not the imposition of a tax rather discourage them?—The tax recognises them; it gives them a kind of authority. If it were not for the tax, I think something would have been done a long time ago to place a check upon the manner in which the public is imposed on by many of these quack medicines.

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2403. *Chairman.*] Have you any idea yourself what course it would be desirable to take for the purpose of superintending this issue of quack medicines, and making it innocuous?—I think the law in France upon the subject is judicious; there they are made illegal, and it is necessary for any persons selling such medicines to publish to certain authorities what the composition is. I think some law of that kind might be judiciously introduced here.

2404. Viscount *Ebrington.*] The seller divulges the composition of the medicine to a few chosen persons?—Yes.

2405. Mr. *Wise.*] How is it that the inspection by the Company of Apothecaries has fallen into disuse in the metropolis?—They can only inspect the shops of apothecaries; they cannot inspect the shops of chemists and druggists. That has fallen into disuse. They have been gradually going away from pharmacy, leaving it to chemists and druggists, in proportion as they have been becoming medical practitioners, and they have not taken the great interest in the progress of pharmacy which they formerly did. I believe the inspection is carried on to a certain extent, but it is rather a matter of form.

2406. Does not that render it still more necessary that chemists should be licensed?—It is what we have been for 16 years endeavouring to bring about; the importance of the subject has scarcely been recognised till this Committee has shown the absolute necessity of some interference. That was primarily the object of the union of chemists in forming the Pharmaceutical Society.

2407. The object which the Committee has in view, you think, would find a ready support on the part of the Pharmaceutical Society?—The Pharmaceutical Society will do everything they possibly can to assist the object for which this Committee has been appointed, and any law which might be prepared, if referred to the council of that society, would meet with every attention; and I have no doubt some practical suggestions might be obtained from that quarter.

2408. Mr. *Gregson.*] Do you think the inquiry before this Committee has had any tendency to reduce the extent of adulteration?—I do not know that it has; there has been very little elicited by the Committee which we did not know years ago, though the public did not know it. Upon looking over the numbers of this journal, I found a great deal which has afterwards been brought up in this Committee as something new. For fifteen years it has been continually coming out by driblets.

2409. Has not much more publicity been given to the subject by the labours of this Committee?—Yes.

2410. Mr. *Wise.*] Having made this inquiry, do not you think it would be very injurious to the public interests if something be not done by the Legislature?—I do not think any harm has been done by the inquiry, whether any law be introduced or not; still, I think it is desirable that there should be some legislative measure.

2411. Those statements having been made, and in most cases proved, do not you think it would have a tendency, if nothing be done, to encourage adulteration?—I dare say some persons have been taught how to adulterate in a manner they had not practised before. I think it would be very desirable that some means should be taken to check it. There has also been a good deal of exaggeration, and an attempt to frighten the public to an extent which, I think, was not required, which has, to some degree, done mischief.

2412. Do you think the public can protect itself?—It can, to a certain extent, but not entirely. It requires the co-operation of the Legislature with the persons engaged in the respective businesses, in order that the honest men may combine together to expose and punish the rogues; and I believe you will find in every trade the respectable portion of the trade would be glad to facilitate any means that might be proposed by the Legislature, and would give practical suggestions as to drawing up any Act which might be introduced on the subject.

2413. Viscount *Ebrington.*] You do not believe that the maxim of *caveat emptor* is the one which the more respectable members of the trade would desire to be the only one relied on?—I believe, to a great extent, it is all which can be done; but when fraud or adulteration is perpetrated in a very scandalous degree there ought to be some means of punishing it.

2414. *Chairman.*] Adulteration, in fact, has become such a science, that it requires something more than common sense and ordinary observation to detect it?—It has, in some cases.

2415. Mr. *Moffatt.*] The Committee are to understand your evidence, in reference to adulteration, as merely confined to the drug trade?—I have chiefly confined my remarks to the drug trade.

2416. In reply to the various questions which have been put to you, you intend your observations to apply to drugs, do not you?—Yes. There are some remarks which would be applicable to other trades; but I have been chiefly speaking in reference to my own department.

2417. Viscount *Goderich.*] I presume, insomuch as you consider adulteration dishonest in the drug trade, you would consider a similar adulteration dishonest in any other trade?—Yes, of course the same principle applies to all.

William B. Carpenter, M.D., called in; and Examined.

2418. *Chairman.*] YOU are connected, I believe, with University College?—I am Examiner in Physiology in the University of London, and Professor of Medical Jurisprudence in University College.

2419. In reference to your professional duties you have probably had your attention called a good deal to the question of adulteration?—I have not had much practical experience in the examination of adulterated articles. I have had occasion, however, to consider the question as a part of sanitary legislation to a great extent.

2420. Will you state to the Committee what conclusion you have arrived at as to the prevalence of adulteration, and its effects upon the public health?—I think there can be no question that there is a large class of articles of food adulterated with substances which are injurious to the public health. This frequently is done in ignorance. For example, in the case of the introduction of copper into pickles, I believe it has been done ignorantly in a large number of cases. The adulteration of bread with alum, I think, to the extent to which it has been sometimes carried, is extremely injurious; and as some of the witnesses doubted whether alum could be found crystallized in bread, I wish to mention that I found it so in one instance, in which it crunched between my teeth; that was a case of bread supplied by a respectable baker for use at my own table.

2421. Do you believe that alum is injurious to the human system?—Its principal injury is the astringent effect it exerts, tending to produce that costiveness which is a very common complaint in large towns.

2422. The continuous use, day after day, of bread mixed with alum, even in small portions, would necessarily be injurious to the health of those who consume the bread?—I think so, decidedly.

2423. What proportion do you think would be injurious?—I should say any proportion would be injurious used constantly, day after day.

2424. Do you think the effect is cumulative?—No; but it tends to produce a habit in the system.

2425. Mr. *Wise.*] Does alum, of itself, supply any want in the human frame?—No; I think I may say certainly it does not.

2426. Is the alum in bread, though dissolved in the baking as it is stated to be, digested?—It would be dissolved in the juices of the stomach, and absorbed into the blood; it would not undergo any change.

2427. If received into the system, it must be expelled?—It is expelled through the urine probably.

2428. In your opinion, alum after it is baked does not adhere in any form to the coats of the stomach?—No; I should think it is taken into the blood. It is a very soluble substance, and the quantity of gastric fluid in the stomach is so large, that at a temperature of 100 degrees, it must be dissolved and absorbed into the blood.

2429. *Chairman.*] Have you ever found any bread sold by bakers in London, which has not had alum in it?—I have not made extensive inquiries. When I remonstrated on this occasion with the baker, he made the excuse that it happened to be a batch of bad flour which would make ropey bread, and he had put more alum than usual to correct that.

2430. Mr. *Moffatt.*] You must be aware that it has been the practice for the last quarter of a century for bakers to put alum in bread in the metropolis?—I am quite aware of it.

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2431. And the inhabitants of the metropolis consume that bread daily?—Yes.

2432. Do you think many persons have their health injured by it?—One of the most common complaints is a habit of costiveness; and I think the alum in bread has something to do with it.

2433. Have you had any experience of other large cities, as to the prevalence of the same complaint there?—I cannot speak of my own knowledge. I believe it is the practice in most large towns to use alum.

2434. Is it within the experience of medical men that the malady you have alluded to is peculiar to London?—It is not; but it is a malady of towns rather than of the country.

2435. And you attribute that to the use of alum in the bread?—I think that is one of many causes.

2436. Viscount *Ebrington.*] There is much ill health in London, and so many causes producing it, that you would be slow, probably, to name any one as the sole cause of the excessive mortality in London?—The mortality is quite a different question; it arises from a different set of causes; but habitual costiveness, which is one of the commonest complaints a medical man has to deal with in large towns, I think arises from the use of alum, to some extent. I know many instances in which it has been removed by the disuse of baker's bread, and the employment of home-made bread.

2437. Mr. *Moffatt.*] Is alum generally used in bread in the large towns of England other than the metropolis?—I believe, generally speaking, in all the large towns it is. You will find different classes of bread in those towns. Many bakers will put up "country bread," meaning that they are not particular as to the whiteness and crispness of the bread. Bakers believe that their customers like white and very crisp bread, and it is to make that bread that alum is chiefly employed. What is called household bread is of a darker colour and not so crisp in its texture.

2438. You have no practical experience in regard to the use of alum in bread out of the metropolis, have you?—No.

2439. Viscount *Ebrington.*] At the same time, it is generally notorious to any one who has travelled through the United Kingdom, that the bakers' bread in towns is very different from what you get in private houses, whether of the gentry, the farmers, or the labourers in the country?—Certainly.

2440. *Chairman.*] Would you infer that the mixture of alum is more common in the inferior kinds of bread that in the better kinds?—Yes; because the bakers themselves allow that they mix it with flour which would not otherwise make good bread.

2441. I suppose in those parts of London where the bread is sold at a lower price than in the richer portions of the town, the bread will be more adulterated with alum, and therefore more injurious to the poor popuiation?—Yes.

2442. Mr. *Wise.*] You say you believe that bread is commonly mixed with alum; are you aware that by an Act of Parliament, passed in the reign of George the Fourth, alum is prohibited from being mixed with bread?—Yes.

2443. How do you account for the prevalence of the custom notwithstanding that Act of Parliament?—We find that to enforce the Act takes trouble, and a great many persons are disposed to put up with evils of which they do not feel the immediate consequence.

2444. If an Act of Parliament exists prohibiting the use of alum in bread or flour, but permitting the use of barley or peas, or Indian corn, if the bread be marked "M," what remedy can you suggest which would enable the public to enforce the law?—I do not think the public will ever take this matter into their own hands. I believe that some Government agent should be appointed as an instrument for maintaining the observance of the law.

2445. You are in favour, therefore, of an inspection of flour and bread, such as exists in Paris?—Yes; while there is a law, I would have the Government take care that it is enforced.

2446. Mr. *Moffatt.*] Why will not the public take the remedy into their own hands?—Because to do so takes a great deal of time and trouble. I can illustrate this by a case of a nuisance which was very obnoxious in my own neighbourhood, a cow yard close by the University Hall. It took me a great deal of time and trouble to get a very qualified abrogation of that nuisance; so much time

and

and trouble, that I really preferred to put up with the nuisance than undertake the task of its removal.

2447. In a case such as you assume, of the existence of a general adulteration of bread, if the public were aware of it, and preferred brown bread, would not there be plenty of venders of brown bread?—The public decidedly prefer a white bread, and the poor especially.

2448. Are there not hundreds of shops in London where you can buy brown bread?—Yes.

2449. Is not it quite optional with the public to have that bread if they please?—I think the poor have a prejudice in favour of white bread.

2450. Viscount *Ebrington.*] The whiteness of the bread is not necessarily evidence of its adulteration, is it?—No.

2451. Mr. *Moffatt.*] Do you know whether alum is used in the bread in Paris?—I cannot say.

2452. Viscount *Ebrington.*] As a general principle, do not you consider it desirable that some persons should be specially appointed to perform on behalf of the public duties which must necessarily involve a great deal of time and trouble on the part of individuals?—No doubt of it.

2453. Has not that principle been recognised in the case of stamping coin, which is, after all, only a commodity consisting of gold and silver, but the measuring and assaying of which would be practically so troublesome, that the Government has intervened; and do not you conceive that the same principle may legitimately be carried out in the case of other commodities besides gold and silver?—Certainly; the principle is carried out in regard to meat, and tolerably strictly, I believe; and the same principle applies to other articles of consumption.

2454. *Chairman.*] Have you any information to give as to other articles of diet?—I was employed by the Chairman of the Board of Inland Revenue, a few years ago, to make a report as to the ordinary process of sugar-refining. I mention the subject because I believe that publicity did there answer the end The question was, whether a process which involved the introduction of acetate of lead should be permitted; the result of chemical analysis showing that a minute quantity of sulphite of lead was found in the treacle. The question submitted to myself, along with the late Dr. Pereira and Dr. Alfred Taylor, was, whether we considered that that quantity of sulphite of lead was likely to be injurious to the consumers, the inventor of the process, Dr. Scoffern, maintaining that it was perfectly insoluble, that it was like so much chalk. We reported that we considered that there was the same likelihood of injury, that there was from any other salt of lead. Our Report was very much called in question by those who were interested in the invention; but it put the trade on their guard against it, and I believe there is no house now carrying on this patent in this country. I may mention, in confirmation of our conclusion, that only last year a gentleman from Ceylon informed me that a detachment of 30 soldiers, in one of the up-country stations, had shown characteristic symptoms of poisoning by lead; the medical officer made very careful inquiries, and could attribute this lead-poisoning to nothing but the sugar; and upon carrying out those inquiries, he found that this sugar was made by Scoffern's process, in Ceylon.

2455. Mr. *Moffatt.*] The result of that discovery or analysis led to the whole of the sugar-refining trade of this country refusing to employ Scoffern's patent?—Yes; it was greatly discredited at once.

2456. And it is not now employed by any refiner in England, Scotland, or Ireland?—I believe not.

2457. Viscount *Ebrington.*] But that inquiry and report of yours was occasioned by the Government of the country taking the question in hand?—Yes. I may mention that the process by which that came about was this: I am not sure the Government would have taken it in hand, if this question had not come before them: two of the colonial legislatures were considering the propriety of refusing to admit Scoffern's process; Antigua had passed an Act prohibiting its introduction, and Demerara seemed about to do it. An Act was sent home from Antigua, for the assent of the Crown, and before giving its assent, the Crown instituted this Commission.

2458. You mean that two of the colonial legislatures wisely considered the subject was not beneath the notice of Government, and owing to their initiating

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the matter, the Imperial Government was obliged to look into it, and the consequence was the satisfactory result which you have just mentioned?—Yes.

2459. *Chairman.*] Are there any other articles which have come under your notice?—I was requested by the Chairman of the Board of Inland Revenue, about three years ago, to make inquiries as to the admixture of chicory with coffee. At that time the Treasury Minute of Lord Derby's Government was in force, prohibiting the mixture of chicory with coffee. The Chairman of the Board of Inland Revenue, at the desire of Mr. Gladstone, wished new inquiries to be made, and it was referred to Dr. Alfred Taylor and myself to make those inquiries. We concurred in recommending to the Government the present system; that is, that a distinction should be made between pure coffee and the sale of coffee mixed with chicory.

2460. You saw no objection to the admixture, provided the public were led to purchase the article with the knowledge that it was not pure?—No objection.

2461. Mr. *Moffatt.*] You saw a benefit to the public in giving that permission to sell the two articles mixed, inasmuch as they could by that means get an article which would answer their purpose at a lower price?—We came to that conclusion; I made very extensive inquiries among the trade, having for nearly 20 years taken an interest in the subject. I have been in the habit for a great many years of seeking after good coffee; wherever I could find a good cup of coffee was to be had, I have been in the habit of obtaining it. For example, it was well known a few years ago that in Fleet-street there was a particular shop to which the lawyers from Chancery-lane were in the habit of going to get good coffee; I was recommended to go there, and I have no hesitation in saying that every cup of good coffee I have known to be sold, has had chicory in it.

2462. *Chairman.*] The objection you had to the employment of chicory was that it was sometimes sold as a pure article when there was a mixture?—Yes; I would have printed on the label which contains the pure coffee the very simple test by which anyone may find out whether there is chicory mixed with it.

2463. Mr. *Moffatt.*] What is that test?—Sprinkle the powder upon a wine-glass full of cold water; if there is chicory mixed with it, the water is coloured in the course of a minute or a minute and a half; but if it is pure coffee, the water has no considerable tinge for four or five minutes.

2464. This excellent coffee which you got in Fleet-street, you believe was mixed with chicory?—I have no question that it was.

2465. *Chairman.*] If I understand rightly, under the present state of the law you do not ask for coffee simply, but you ask for pure coffee?—I do not think the law applies to sellers of the beverage.

2466. Viscount *Goderich.*] I understand you to say that this coffee was prepared for drinking; you were not buying coffee to take home for your own consumption?—Quite so.

2467. Mr. *Moffatt.*] You believe it is a public advantage that there should be this adulteration of coffee with chicory?—Yes; I have for several years been in the habit of having large parties of friends in the public rooms at my disposal, and I have been often asked, "Where do you get your coffee? we never procure coffee so good anywhere." My practice has always been to purchase the best coffee, and mix one-eighth of chicory with it.

2468. *Chairman.*] You purchase them separately?—Yes.

2469. Mr. *Gregson.*] Beyond one-eighth you do not think it desirable to mix chicory with coffee?—The proportion differs with the quality of the coffee. I satisfied myself that a mixture of more than about one-eighth with the best coffee deteriorates it. The pure aroma is covered by the strong bitter of the chicory; but, on the other hand, a much more palatable article may be sold at 1 *s.* a pound by the mixture of three-quarters of a pound of coffee, at 1 *s.* 3 *d.*, and a quarter of a pound of chicory; and that is a very important point with regard to the consumption among the poor; coffee at 1 *s.* a pound is constantly asked for by them; many of them will not give more than that price, but no good coffee can be sold at 1 *s.* a pound.

2470. Mr. *Moffatt.*] Can any sound coffee be sold at 1 *s.* a pound as the market price?—I cannot undertake to say whether sound coffee could be sold at that price; it would be an exceedingly flavourless article.

2471. Mr. *Wise.*] Have you heard that acorns, and parsnips, and carrots are dried

dried and ground and mixed with chicory?—I have heard so. I have had no personal experience to that effect.

2472. Viscount *Ebrington.*] You lecture on forensic medicine, do not you?—Yes.

2473. Has the question of adulteration ever occurred to you in another point of view; do not you consider that the habits of fraud and lying which are engendered by the extensive practice of adulteration are calculated to act injuriously upon the general standard of morality and fair-dealing in the country?—I think decidedly so.

2474. Mr. *Moffatt.*] Have you considered what are the best means of putting down the system of adulteration?—The system of Government inspection, I think, is the only method.

2475. Have you made any calculation what would be the amount of the staff likely to be requisite for an efficient Government inspection?—I heard Mr. Wakley's evidence, and I would say that I think it would not be possible to obtain the services of gentlemen really qualified throughout the country, except at a very heavy cost indeed. Men must be specially educated for the purpose, and it has always occurred to me that a central board in London, samples being purchased and sent up to London, would be a much cheaper method. When the inspector became known, the retailer would have one sample for the public and another sample for the inspector; he must therefore employ buyers for him.

2476. Have you made any calculation as to the number of persons that would be employed to make an efficient and constant survey of all goods sold by the vendors in the hundreds of thousands of shops in the United Kingdom?—I have not.

2477. Mr. *Gregson.*] Would not the existence of such a body of inspectors prevent adulteration, tradesmen knowing that they might come accidentally into any shop at any time?—I am quite certain that it would; I have been assured by the Board of Inland Revenue, that in many instances where the Excise has prosecuted, and where any publicity has been given, there has been immediately a great improvement in the samples of the particular article.

2478. Viscount *Ebrington.*] Without being sanguine enough to believe that a total and entire check could be put upon those practices, which are, many of them, injurious to health and all of them to morality, you believe that practically a great deal of discouragement could be given to those practices, and they could, to a considerable extent, be prevented very much, as crime is prevented to a considerable extent by the police, without being altogether put down?—Yes.

2479. And that at a moderate cost?—I think at a moderate cost, using the machinery which at present exists, namely, the machinery of the Excise with the addition of highly qualified examiners to examine samples. There are certain things in which there is very little difficulty in detecting adulteration, but there are others in which it is a matter of very great nicety; I wish to state that that nicety has not always been exercised in the published statements. The case which Mr. Wakley adverted to just now, was one in which I was myself employed; at least I presume it to be the one adverted to. I believe his memory failed him as to the article, and that it was not cocoa, but chicory; the individuals were the same, Messrs. Fry, of Bristol. Dr. Hassall charged Messrs. Fry with the adulteration of chicory to a large extent with roasted corn. I mention this not with any view to throw odium upon Dr. Hassall, but because I think the Committee ought to be aware of the extreme difficulty there is in many cases in obtaining an accurate analysis, the time it involves, and the mistakes which may occur even with good intentions, for I believe Dr. Hassall to have gone into the matter with very good intention. The number of analyses he published per week could not have been made with the requisite care by one or by half-a-dozen persons.

2480. Mr. *Moffatt.*] Will you state the number of analyses which Dr. Hassall states himself to have made in any given period, and the length of time they would have taken if made carefully and accurately?—There were published in many weeks 20 or 30 analyses as the result of that week's work.

2481. Would it be practicable for any gentleman analysing such articles as you describe to have made that number of analyses?—Not a single person.

2482. Mr. *Gregson.*] Perhaps Dr. Hassall employed several persons?—He

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employed one or two to assist him in some of the details of chemical analysis; the main body of the microscopical examinations were made by himself.

2483. Mr. *Moffatt.*] Dr. Hassall was not the first person who directed his attention to this subject, was he?—I think reports had been made by Drs. Lindley and Hooker to the Government upon some of these adulterations before Dr. Hassall took up the matter. I will not be certain about the dates.

2484. Mr. *Wise.*] Dr. Hassell was assisted by a great number of other persons, was not he?—Not, I believe, in the microscopical examinations.

2485. Mr. *Moffatt.*] Did you find any other articles in which there was an error in the analysis reported by Dr. Hassall?—Yes; there was one which was a chemical one, showing the necessity for very great care; that was a case in which he stated that vinegar had sulphuric acid in it; the vinegar manufacturer, though sulphuric acid is a legitimized mixture up to a certain point, was very anxious for the credit of his article; and he obtained an analysis by some of the first chemists, who said it was true that there was sulphuric acid present, but no more than the water, which was a very hard water, contained.

2486. Viscount *Ebrington.*] In substance, therefore, Dr. Hassall's statement was borne out?—There was sulphuric acid, but in the state of sulphate of lime.

2487. Mr. *Moffatt.*] There was no more sulphuric acid in the vinegar than could have been obtained from the same quantity of water under similar conditions?—No.

2488. Mr. *Gregson.*] Can you suggest any means for the prevention of these adulterations?—My impression is very strong that a Government inspection is required; a great number of persons would have complained of the charge made against them if it had not been for the expense and trouble of doing so. In this case of Messrs. Fry they paid 120*l.* to the gentlemen whom they employed to investigate, besides the legal expenses, and at last they obtained an acknowledgment from the "Lancet" that a mistake had been made.

2489. The "Lancet" published a great many names and addresses of parties?—Yes.

2490. Did any of those persons bring actions against the "Lancet"?—Messrs. Fry did not bring an action, and the reason which operated with them would operate with others, that they could not prove special damages.

2491. Mr. *Moffatt.*] There might be real damage, though they might not be able to prove it?—Yes.

2492. Viscount *Ebrington.*] The impression on your mind is, that both for the sake of justice to the dealer and justice to the customer, so delicate and difficult and expensive a process as analysis should not be left to the accident of demand and supply, but should be undertaken by certain properly qualified and responsible persons?—Yes, decidedly.

2493. The difficulty and expense attending these analyses, if they act as a discouragement to dealers, on the one hand, to vindicate their character, act at least to an equal extent, if not to a greater, on the public, in discouraging individuals from taking up for public good such inquiries as these?—Exactly so.

2494. Mr. *Moffatt.*] You have made no estimate as to the cost of such a supervision, or the means by which it is to be carried out?—No; but I feel certain that one or two superintending analysers, with a staff under their own constant supervision, would carry it out much more cheaply and certainly than a number of separate individuals throughout the country.

2495. Your plan would be to have men of great eminence as analytical chemists, and that they should employ under them probably 2,000 persons, as a staff for the country?—I think it would be a cheaper plan that the analytical operations should be carried on in London.

2496. You would recommend the appointment of an Analytical Board in London, to whom all samples should be referred?—Yes.

2497. To obtain those samples, would you employ the machinery of the Inland Revenue?—For articles of food I should; the question of drugs is a distinct one.

2498. Everything which people eat, drink, and smoke, you would recommend should be put under the Inland Revenue Department?—Yes; I think with regard to drugs they might be more properly left to a medical inspector.

2499. Mr.

2499. Mr. *Wise.*] You would enlarge the sphere of the detective and analytical department of the Excise?—Yes.

2500. In minor matters, perhaps you might satisfy yourself with publishing, as the French do, on the 1st of January in every year, special regulations as to the use of colouring matters and things of that kind?—Yes.

2501. Mr. *Moffatt.*] Would you propose to meddle with adulterations which are not injurious to health; for example, putting rice into pepper?—That is rather a question of revenue; I think there is a difference in articles according to whether the public can protect itself or not; in coffee I think the public can protect themselves quite enough; they can protect themselves just as well against the admixture of chicory, as against having a poor coffee supplied to them.

2502. What is the general description of the articles you would propose to protect the public in?—I would protect all articles from any admixture which is injurious to health.

2503. Would you extend your surveillance beyond that?—I do not see that it need be extended beyond that which is at present carried on for revenue purposes.

2504. Mr. *Gregson.*] You would not attempt, perhaps, to prevent the deception of selling articles under a false name?—I think it would be quite right to do so, just as in the case of chicory and coffee.

2505. Viscount *Ebrington.*] Though your views would chiefly be directed to the preservation of the public health from the consequences of adulterations injurious to health, you would recognise fraud as a thing to be exposed and punished as such, quite irrespective of sanitary considerations?—Clearly so; if you ask for a gold chain and are supplied with one which is two-thirds copper or silver, it is a fraud.

2506. Mr. *Moffatt.*] So you might ask for a silk gown, and it might be sold to you mixed with cotton?—I have not considered the question as applied to articles of that kind; I believe that there the thing is so well known to all buyers, that ladies qualify themselves to judge of the quality.

2507. *Chairman.*] Is not gold frequently sold of different descriptions of fineness?—The same principle would extend to that; it is a question of practicability.

2508. With reference to the morality of the mixtures, why should not you inspect silks and jewellery, as well as wine and beer, and coffee and so on?—I have only considered the matter in regard to articles of food.

2509. Viscount *Ebrington.*] As a general rule, you think it desirable that the purchaser should receive the article which the seller professes to supply to him?—Certainly.

2510. And that the poorer classes should have some speedy, and cheap, and simple remedy for bringing offenders to justice?—I think this of the highest importance.

2511. I understand that an action at law must now be brought for fraudulent adulteration; do not you think it would be very desirable to have some cheap and easy mode of summoning parties before a magistrate, with penalties for the first, second, and third offence?—I would go beyond that; a working man cannot afford time to attend before a magistrate.

2512. I am assuming a detective inspector to be appointed, who would be a witness in the case, to whom the householder might apply?—Yes.

2513. Mr. *Moffatt.*] Do not you think that that system of surveillance would be liable to great abuse; does not it appear to you that it would throw great power into the hands of persons who have no great amount of responsibility?—I think no more power than is involved in a great many other situations.

2514. What should you point to as an analogous case?—The switchman of a railway, for example; I think he has quite as much responsibility.

2515. Viscount *Ebrington.*] Is it impossible to give a reasonable amount of security by providing that there shall be two samples, one to be carried off by the informer, and the other to be left with the party; would the risks of injustice and false accusation be, in your opinion, so very great if that were done?—I think it might be easily guarded against by never proceeding upon a single sample, but by employing two buyers, who should check one another.

2516. There is no more danger of error to apprehend from bad intention in this particular case, is there, than is likely to arise from human frailty and

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imperfection in most other cases?—No; it arises at present in Excise proceedings. There are a great many articles to which, I think, the same principle that I speak of, with respect to coffee, applies; for example, sulphuric acid. The sulphuric acid of commerce is an impure article; but it is sufficiently pure for all ordinary purposes; but if I want sulphuric acid so pure as to serve for chemical testing, I must ask for it as pure sulphuric acid.

2517. Mr. *Swift.*] From your experience on the subject of adulteration, is it your opinion that the adulteration of food has increased during the last 25 years?—I cannot speak with any certainty on that point

2518. Do you think there has been any increase within the last few years?—Yes. I think the publicity given by publications 15 or 20 years ago has led to a great many practices becoming general which were not so general before.

2519. Do not you think that the circumstances of the poor have led very much to public competition, and to tradesmen endeavouring to produce an article at the lowest possible price, and that that is one cause of a considerably increased amount of adulteration?—I think there are a great many causes which have led to it; the congregation of the poor in particular neighbourhoods, for example, in which there are not any large and respectable tradesmen. I have satisfied myself of this; and it was particularly the case with regard to chicory and coffee, that where a dealer sells a really good article, at a moderate price, in a poor neighbourhood, the poor will find it out, and will come to his shop; but I believe there are extensive neighbourhoods in which the poor, without going to some distance, have not the power of buying to advantage; there is only a low class of tradesmen in the neighbourhood.

2520. Is the adulteration carried on by them, do you think, or by the wholesale dealers of whom they purchase?—I cannot say.

Veneris, 4° *die Aprilis*, 1856.

MEMBERS PRESENT:

Viscount Goderich.	Mr. Wise.
Mr. Cowper.	Mr. Moffatt.
Mr. Alderman Cubitt.	Mr. Gregson.
Viscount Ebrington.	Mr. Peacocke.
Mr. Kinnaird.	Mr. Otway.
Mr. Charles Villiers.	

VISCOUNT GODERICH, IN THE CHAIR.

Mr. *Joseph Woodin*, called in; and Examined.

Mr. *J. Woodin.*

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2521. *Chairman.*] YOU are in trade as a Grocer and Teadealer, are you not?—I am.

2522. How long have you been engaged in that business?—I have been in the trade 25 years, but the particular trade that I am now conducting I have been in about five years.

2523. What is the trade which you are now conducting?—It is called the Co-operative Central Agency.

2524. Will you state to the Committee the nature of that agency?—The agency was commenced some six years ago by some gentlemen who were anxious to put a stop to the practice of adulteration. The exposures of the "Lancet" had proved that adulteration was going on to a great extent, and the Government of the day had declared that they did not mean to interfere, and that the doctrine of *caveat emptor* must apply. As those gentlemen considered that the public could not protect themselves, they thought some business should be started, on the principle that was adopted in the country districts, where a number

number of men are combined together. When the truck system was abolished, they combined together to buy their goods wholesale, and serve themselves, so as to protect themselves from fraud. The gentlemen that commenced the agency thought the same system could be adopted in London, so as to enable the consumers to protect themselves in London, as well as in the country.

2525. You undertake therefore to supply them with unadulterated goods?—We do. I was not in the agency when it was first started; the founders thought they could conduct it without any person connected with the business. I was in business for myself at the time; they found that they required some person that understood the business, and they made overtures to me, and I took the management of the business.

2526. How long were you in business on your own account?—My answer applies to the time I had been in business before I undertook the management of the agency; three or four years.

2527. Are you able to state to the Committee whether adulteration in groceries exists to a considerable extent in this country or not?—It does. I should wish to describe the state we found the trade in when I went into it. When I first undertook the management of the stores there were a number of those stores in the country, and the gentlemen who started the agency thought they would be much benefited by buying all their goods from one common centre, and that was one of the reasons for starting the agency. The first thing which they did was to send down to those stores to supply them. Some of our gentlemen had called at one of those large stores for orders, and the storekeeper stated that the members of the store were going to have a tea party, and that was a favourable opportunity for trying our tea; they gave us an order, among other things, for a chest of the finest green tea that could be got, leaving the price open; the tea was bought; it was pure green tea, with as little colouring as could be got; it was sent down to them, and the gentlemen, in a few days, called on their return home, and asked how they liked the tea; they did not meet with a very civil reception; they were told they need not call there again; the tea sent was so very inferior that they could not think of giving another order. They wanted to know then what was the matter with the tea, and the storekeeper went and put his hand into the canister, and showed them a sample of very vivid green tea; he said that is the sort of tea we have been accustomed to have; you have actually charged 6 *d.* a pound more than we have been paying for this tea. Those gentlemen did not know anything about the tea trade; so they forwarded a sample to me, and I saw there was no green tea in it; it was painted black tea, there was not a particle of green in it, and the only way we could convince the store people was by buying tea to match their own; they could not believe that theirs was inferior tea to ours; because theirs was such a much brighter colour; we had given 3 *s.* 1 *d.* a pound for our tea, and the tea we bought to match theirs we gave 1 *s.* 3 *d.* for, so that they had been paying five guineas upon a single chest of tea more than the value.

2528. You state that in order to show that the practice exists in the trade of selling coloured black tea as green tea?—Yes. At that time we found the same practice existing through the country. Wherever we went into the manufacturing districts, they would not look at the true green tea, the gunpowder tea was, in many instances at that time, mixed with lie tea, similar to the samples I now produce; there was a portion of tea with it, but it was all very highly coloured (*producing the same*). They would not look at the genuine tea at all; they insisted upon having highly painted tea; and we found that we must either give up our idea of selling genuine goods or else enlighten the public on the subject. The gentlemen with whom I was connected stated to me that what was required was, not for any new facts to be shown to the people, but that the facts that were known to the tea trade, and also to the educated classes, through the means of the "Lancet," should be made known to the consumers in the manufacturing districts. I was commissioned to collect all the facts bearing upon the case, which I did, and published them in a book. I have the book here; it was published in 1851.

2529. Do you consider yourself able to speak as to the usage of the trade in these matters?—I know the practice that was existing at the time, and I have been in business ever since. I know the practice up to the present time. If

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you will allow me, I will read a few extracts from this book that will explain the state of the trade at the time that we published this book.

2530. Will you state briefly what you have to say about the existence of adulteration in tea?—"The adulteration of tea. It will be seen from the following evidence that tea is subject to a considerable amount of adulteration both in China and this country; but although a certain amount of adulteration is carried on in China, we should be doing an injustice to the celestials if we laid the blame entirely upon them. The evil owes its origin to and still depends for its perpetuation on ourselves. It is solely attributable to the competition among traders in this country. It is certain that the Chinese annually make for tea large quantities of leaves other than those of tea. They are also very expert at making common and inferior tea assume the appearance of the best, especially in green tea."

2531. Mr. *Moffatt.*] Have you ever been in China?—No.

2532. Do you state of your own knowledge what the Chinese do with respect to tea?—Yes, I do, from an examination of the samples after they come over here. "Common and damaged green tea, and also black tea, is treated in the manner hereafter to be described in the Canton factories, so as to resemble the finest hyson, ouchain, or gunpowder; they are also guilty of making 'lie tea.' This is made of a portion of tea-dust (the sweepings of the factories), and not a little dirt, sand, and sometimes spurious leaves, made into a mass with starch and gum, and either granulated or broken into fragments, and bloomed or painted to resemble tea; but all this is done by the dictation or with the knowledge of the British merchant. The Chinese do not impose this rubbish upon him for genuine tea; he knows it is rubbish when he buys it, and he pays only the price for rubbish. Neither is the dealer in this country imposed upon if he knows his trade. If he buys it, he buys it with a guilty knowledge; it is only the British consumer that is deceived and cheated. He asks the dealer perhaps for green tea, and the dealer gives him what in appearance is green tea, but the dealer knows at the same time that it is a mixture composed of damaged black tea, spurious leaves, sand, dirt, and paint. You may rest assured the Chinese themselves do not drink these spurious imitations, neither does the shopkeeper; on the contrary, he is perfectly aware of the deleterious ingredients employed and of their injurious effects on the health; but he is induced to make use of the fraud in order to compete successfully. He must at any rate appear to be as cheap, and if possible cheaper than his rivals. To the people of this country the importance of the suppression of this nefarious trade is greater than at first sight it appears to be, both on account of health and money. It unfortunately happens that there are no means of arriving at the exact quantity of Canton made green tea imported or consumed; but the most eminent brokers and persons best qualified to form a correct judgment, give it as their opinion that a full half of the annual importation of green tea is Canton made. The total quantity of green tea imported in 1850 was 8,286,532 lbs., and the quantity cleared for consumption was 9,737,555 lbs., and assuming that one half was Canton made, it will give us 4,143,266 as the number of pounds imported, and 4,868,777 consumed. To this we may add the imports and deliveries of scented caper, as the bulk of that tea is even more adulterated than Canton green tea. In 1850 there were 688,000 lbs. imported and 884,000 lbs. consumed; this will give us a total of 4,831,366 lbs. of Canton made tea imported, and 5,752,777 lbs. consumed. At least half of this quantity consists of the spurious descriptions; but the whole of it is sophisticated, and is a fraud on the consumers. The very best of it, that portion which really is tea, is a cheat; it is not the kind it appears to be; it is all highly painted or dyed, and is in most cases the very commonest descriptions made to resemble the better qualities. There is now scarcely any bohea or twankay imported (at least under those names) to what there was formerly. The Canton alchymists, with the assistance of the British merchant, have discovered the art of transmuting these common grades into young hyson, pearl leaf gunpowder, caper, &c. If we refer to the last year of the East India Company's charter, from 1st May 1833 to 1st May 1834, we find the quantity of bohea sold in England was 6,170,963 lbs., and of twankay 4,339,672 lbs; in 1850, there was only 24,500 lbs. of bohea and 27,510 lbs. of twankay imported, the quantity of bohea consumed was 145,340 lbs., and of twankay 843,359 lbs. The

question

question naturally arises, what becomes of the difference in quantity between the boheas and the twankays imported now and that which used to be imported in the Company's time? The solution of the question is, that bohea now finds its way here, partly in the shape of congou, but the bulk under the semblance of Canton gunpowder, young hyson, caper, &c.; the twankay is metamorphosed into hyson, imperial and superior Canton gunpowder, or young hyson. The fraud that is perpetrated on the consumer in the manner before described, is sufficiently reprehensible; but it is only a trifle compared to the injury that is inflicted on him by the use of the spurious kinds. It is bad enough to have the worst tea substituted for the best, but it is still worse to pay for swallowing dirt and rubbish as tea. We are within the mark in stating that half of the Canton made tea is spurious; we have seen that the total quantity consumed in 1850, was 5,752,777 lbs., and taking the half of that quantity as the minimum, we arrive at the fact that the people of this country pay for, and consume at least 2,876,388 lbs. of this spurious rubbish!!! and assuming that it is all sold to the consumer at 4*s.* per pound (and much of it is sold at considerably above that price), we find that the people of this country are made to pay the enormous sum of more than 500,000 pounds sterling (!!!) for what is intrinsically worthless. The article can be bought in Canton at a few pence per pound, and the greater part of this price is paid for the labour employed to give these otherwise useless materials a marketable appearace. The consumer of this article do worse than throw away this large amount of money, for there can be no question, that as far as their health is concerned, they would be gainers, if they threw the whole annual importation of this rubbish into the sea, instead of allowing it to find its way into their stomachs."

2533. *Chairman.*] Do you believe that statement to be applicable at the present time?—Not to the same extent that it was then; there has been a marked improvement owing to the exposures that have taken place.

2534. When was that written?—In 1851. It was a correct statement of the condition of the trade then. We found, at that time, that we could scarcely sell genuine tea at all, and we were obliged to engage lecturers to go round the country, and explain the matter to the working classes; amongst others, we had George Dawson from Birmingham, to come to London to lecture on the subject.

2535. Mr. *Otway.*] Are you certain of the accuracy of the figures you have given, of the number of pounds of tea imported, and the number of pounds consumed?—I am certain as to the total quantities imported and consumed, but there is never any distinction made between Canton and true green tea. There are no exact means of finding the comparative quantities.

2536. You are certain as to the number of pounds imported, but the merit of that statement is the difference between the number of pounds imported and the number of pounds consumed; are you certain as to the consumption?—The imports and consumption are always to be ascertained. The figures were taken from the current statements published annually. I have provided myself with the ordinary sale lists, published the last month, which, if you will allow me, I will hand in. Now, you will find that there is no bohea imported as bohea. If you want to find the bohea you must come down to green teas. Under the head of Gunpowder, you will find "Fair to good and fine, 1*s.* 4*d.* to 4*s.* per lb." This refers to true green tea. "Canton and twankay kinds, 10*d.* to 1*s.* 3*d.* per lb." That means gunpowder tea made at Canton from twankay; twankay being the lowest kind of green tea. "Woping and bohea kinds, 8*d.* to 9*d.* per lb." That means gunpowder made from coloured woping bohea. The same three descriptions, that is, "Fair to good and fine," "Canton and twankay kinds," and "Woping and bohea kinds," are also applied in the brokers' lists to imperial and young hyson. It was stated here by a gentleman that there was no bohea or woping sold now; it is not sold as woping and bohea, but it has always been imported since the Company's charter has been done away with as gunpowder, young hyson, and imperial, and in the brokers' price currents each of these three kinds are described as being composed of bohea.—[*The Witness handed in the Trade List.*]

2537. Mr. *Villiers.*] For what purpose do you produce that list?—To show that the ordinary woping, bohea, and twankay, that in the Company's time used to come as woping, bohea, and twankay, and was sold to the public under their own proper names, are now sold under the titles of the better grades of tea.

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All the common tea which the Company used to import, as common tea, still comes into the country, but instead of being sold for what it is, as common tea, at a common price, it is sold for the finer kinds of tea.

2538. *Chairman.*] Do you mean that it is sold at a higher price?—It is sold to the trade for what it is, but the retailers sell it to the public for gunpowder, young hyson, &c.

2539. At the price of better tea?—At the price of better tea.

2540. Mr. *Moffatt.*] Will you define to the Committee the distinction between woping and bohea?—I can read you the Company's own description of it.

2541. Mr. *Villiers.*] Do you intend to prove that the retail dealers in tea practise a fraud upon the public by selling an inferior for a superior article?—Yes.

2542. Mr. *Moffatt.*] Will you define the distinction between woping and bohea, of your own knowledge?—I have never been to Canton, and therefore I cannot say what it is of my own knowledge, but I have sufficient evidence of the fact; woping tea, in the time of the Company, used to be grown as a coarse kind of tea in the province of Canton. It was so common that the Company's inspector declared that it could never be sold as it was.

2543. That is 24 years ago, is it not?—Yes.

2544. The Committee desire to know what is now current; will you define to the Committee what is the distinction between woping and bohea at the present time?—I must explain what bohea used to be, or the Committee will not know what it is now.

2545. I want your knowledge of what it is now; I do not care what it used to be 30 years ago?—There is no tea comes as woping; it all comes as gunpowder, young hyson, and the finer sorts.

2546. You believe there used to be two kinds, the one woping and the other bohea?—Bohea was composed of woping and common congou; the refuse congou that was not sold during the shipping season was called winter congou, and then the Company used to mix it with half woping tea; that was the Canton bohea that used to be imported.

2547. A mixture of winter congou and woping tea made the Canton bohea?—Yes; the Fokien bohea was grown in the Fokien district, and came to Canton in its original packages, and was reshipped in those packages, and never underwent any mixture at Canton, but the Canton bohea was mixed at Canton, and composed of old winter congou with an equal portion of woping.

2548. Do you know that of your own knowledge?—I have the evidence here of the Company's inspector.

2549. Do you intend to produce that evidence to show how the public are defrauded at the present time in tea?—I produce it only in answer to your question.

2550. Mr. *Villiers.*] Is bohea now sold at all?—Not as bohea; it is sold as green tea.

2551. Mr. *Otway.*] In fact the tea that used to be sold as bohea is sold under a different name at a higher price, and the public cannot obtain the ancient tea at the old price?—They cannot obtain it at all under its own name.

2552. Mr. *Cowper.*] It is not sent out of China as bohea?—No, not to this country; or if at all, in very small quantities.

2553. Mr. *Moffat.*] How do you know that?—Because there is none in the list imported.

2554. How do you know that the woping tea which used to be imported by the East India Company is now exported from Canton and Shanghai under any other name?—Because it is quoted in the trade lists as woping and bohea, gunpowder, young hyson, and imperial. Woping is a district in the province of Canton, therefore woping tea is never exported from Shanghai.

2555. You say that no woping is imported, but the trade list says that it is?—As gunpowder and young hyson, not as bohea. There is another list (*handing in the same*). Those are all the green teas, and amongst them the "bohea kinds;" that means green tea made out of the kinds of tea that the bohea used to be composed of. The superior Canton is made from twankay, and is now sold as young hyson, imperial, and gunpowder. You will find there is just the same distinction; it has always been sold by the wholesale trade for what it is.

2556. Mr. *Villiers.*] Does the retailer sell anything as bohea now?—No.

2557. Mr.

2557. Mr. *Moffatt.*] Does the retailer buy anything as bohea?—No, not as bohea.

2558. Does not he buy it as young hyson?—Yes.

2559. The bohea tea, according to the price current here, fetches from 5 *d.* to 6 *d.* a lb.; are you aware what price the Company's bohea used to fetch?—Yes.

2560. How much?—At the last sale 1 *s.* 10 ½ *d.* You asked me if I could state what the bohea was composed of. I will refer the Committee to a question which was put to Mr. Reeves, who was the Company's inspector.

2561. *Chairman.*] What is the book to which you are about to refer?—The Report on Tea Duties, 1834. This is the evidence of Mr. John Reeves, who was the East India Company's inspector of teas at Canton. He was asked this question: "Will you state, as concisely as you can, the history of the manufacture of Canton bohea? Canton bohea is made from congou tea that has remained at the end of the season in the market, not having been bought, but remaining in the hands of the manufacturers at the end of the season, and of the tea grown in the province of Canton called woping tea.—You mean to say that it is an admixture of old tea of the former season and the woping tea? It is.—Where is that admixture made? In Canton. The woping tea comes down to Canton chiefly in tubs.—Have you ever known the woping tea purchased by the East India Company in its separate and distinct state for exportation to England? Never.—Is its quality generally so inferior as not to be fit for use without an admixture of better tea? Certainly, I should say so, for the English market."

2562. Mr. *Moffatt.*] Will you define to the Committee what is the difference between woping and bohea; with 20 years' experience, do not you know that woping and bohea mean the same thing, and not two descriptions of tea?—Bohea was partly composed, according to every report that was made, of woping. Woping entered into the composition of bohea.

2563. But woping tea was never imported into this country under the East India Company without a mixture of congou?—No.

2564. What was it called when it was so mixed?—It was called Canton bohea.

2565. You do not know of any distinction that there is between woping and bohea; according to your evidence they mean the same thing now?—The woping tea is tea grown at Wo-Ping, a district in the province of Canton.

2566. According to the paper which you have laid before the Committee, it appears that bohea was imported in the East India Company's time, and sold at 1 *s.* 6 *d.* to 2 *s.* a pound, and it is now imported under other names, and fetches from 5 *d.* to 6 *d.* a pound?—Yes.

2567. From that do you deduce that there is any fraud in the importation of this tea under the names of bohea, Canton, twankay, and young hyson?—It is an immense injury to the poor in this way, that at the time the tea was imported by the Company, there was an *ad valorem* duty of 96 per cent. on bohea tea, and instead of remaining as an *ad valorem* duty, or a rated duty of 1 *s.* 6 *d.* on bohea and 2 *s.* 2 *d.* on congou, the trade petitioned to have one equal duty put upon all kinds of tea. I am now speaking of the wholesale trade. It was represented to them that it would be an injustice to make the poor man pay as much for his bohea as the rich man paid for his fine hyson; that was met by the trade stating that bohea tea was very common, and so worthless compared to the better kinds, that an equalisation of duty would amount to a prohibitory duty, and there would be no bohea imported. At the present time bohea is worth 6 *d.* a pound in the market, and twankay 8 *d.*; if there were an *ad valorem* duty now, the buyer could have it now at 1 *s.* or 1 *s.* 4 *d.* a pound.

2568. Mr. *Villiers.*] What you call "worthless stuff"?—Yes; if there was an *ad valorem* duty there would not be so much injustice in the matter; but the injustice to the poor man consists in his having to pay 1 *s.* 9 *d.* per pound duty on what is intrinsically of so little value, and if it was imported under its own name there would be very little of it sold.

2569. You are going into the policy of levying a duty upon the article of tea; the Committee wish you to state what you know of the fraud practised by the trade, by selling inferior tea for higher priced tea?—My object in calling the attention of the Committee to this subject, is that the coloured tea should

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be prevented from being imported at all. If Canton bohea was not allowed to be imported as gunpowder and young hyson, and it could not be sold under its own name, it would not be imported. It would not be sold if it was not permitted to be imported as green tea.

2570. Do you want to prohibit its coming into the country at all?—While the present rate of duty exists. I will show the Committee some samples of tea which are now being offered for sale, of which some is lie tea (*producing the same*).

2571. Do you mean to say that lie tea is now imported into this country?—It is still sold wholesale and retail.

2572. Can you prove that?—Yes.

2573. Have you a sample of lie tea with you?—Yes (*producing the same*).

2574. Is the lie tea, of which you are going to speak, the same lie tea that has been spoken of in this Committee before?—Yes; that sample was offered at Moffatt's sale, 1855.

2575. Mr. *Moffatt.*] When was it imported?—I do not know; I could get the information if it was requisite.

2576. Are you not aware that it frequently occurs, when teas are unsaleable, they are offered for auction when they have been in the country four or five years?—Those are teas that can be got at any time; they have never left off being sold.

2577. *Chairman.*] Will you state to the Committee what you mean by lie tea?—There are two kinds of lie tea imported; one is composed of from 20 to 40 per cent. of sand, mixed up with the refuse of the tea-dust; it is worked into a mass, with a kind of starch or gum made from rice, and when it is granulated it is painted to resemble green tea.

2578. Can you say, of your own knowledge, that that description of tea is imported at the present time?—Not simply as lie tea; there was always a very little of that imported, compared to the sample I have placed before the Committee, which is composed of part lie tea and a portion of true tea.

2579. Are the Committee to understand that the lie tea chiefly composed of sand is not imported?—It is mixed with other tea; it is not sold to such a large extent as it was formerly.

2580. What is the second description of lie tea?—The second description is that in which there is a portion of good tea mixed with the lie tea.

2581. A portion of good tea is mixed with the lie tea composed of sand?—Yes.

2582. Mr. *Otway.*] Were the samples which you have produced procured recently?—Some were offered for sale to me within the last three weeks.

2583. Mr. *Wise.*] You were asked what you mean by lie tea; you mean what the Chinese mean, that is, false tea?—Yes, sham tea.

2584. Mr. *Moffatt.*] Is lie tea imported in any considerable quantity now?—No; and it will not be imported while this Committee sits; the exposures which have taken place have put a considerable check to it; if nothing is done by this Committee, in a couple of years we shall have as much imported as ever.

2585. *Chairman.*] Do you think any is imported at the present time?—Certainly; I have samples here.

2586. Mr. *Moffatt.*] What is the date of importation?—They were offered for sale on the 30th of October last year.

2587. Has any been offered for sale more recently?—I do not know, because I never look out for it.

2588. Do you know when that tea was imported?—I do not.

2589. It may have been imported when you made your statement in 1850?—I think not.

2590. Why not?—I do not believe it was.

2591. At what price can you buy lie tea?—Eight pence a pound.

2592. Less than that, cannot you?—I never bought it.

2593. Do you know any one that ever has bought it?—Yes; (*producing a sample of tea*), that is lie tea mixed with ordinary tea.

2594. Mr. *Otway.*] Where was this tea purchased?—It was offered at Moffatt's sale, October 1855.

2595. Wholesale?—Yes.

2596. Does it come in this way into the hands of the public?—It does; here is some which was bought from a retailer (*producing the same*).

2597. *Chairman.*] What was it sold for?—Fine pearl leaf gunpowder; it is sold wholesale as lie tea, spurious tea.

2598. It is not sold with any purpose of fraud to the retailer?—No, not by the wholesale men; the wholesale men are honourable to each other and to the trade; it is only when it is sold to the public that the public are the losers.

2599. Mr. *Otway.*] What is that spurious tea sold for at the wholesale price?—About 8 *d.* per pound.

2600. Mr. *Moffatt.*] Did it sell at the sale to which you have referred?—I do not know; I never buy lie tea; but as I wanted to show this Committee a sample, I inquired for it a few weeks since, and this sample was given to me, with the date when it was put up for sale.

2601. Having been in a public auction sale about six months since?—Yes; here is another sample offered for sale (*producing the same*); this also contains lie tea; it was offered for sale to me about a fortnight ago.

2602. When was that imported?—I do not know; they only gave the name of the ship, the "Malacca"; the price was 8 *d.*

2603. When was it imported?—I did not take the date of importation.

2604. Mr. *Villiers.*] I understand you to say that the wholesale houses have no scruple in selling lie tea?—No.

2605. It is generally recognised as an article to be used for the purpose of being passed off on the public as a superior tea?—It is always known that it will be sold to the consumer as a superior tea, and never for what it is.

2606. Is there a good market for this lie tea, do you know?—There used to be, until the "Lancet" drew public attention to the fact.

2607. When did the "Lancet" draw public attention to the fact?—About 1850 and 1851.

2608. Then was it discontinued for any time?—There was no very perceptible difference for one or two years, but gradually, as the people began to get better informed, it decreased. At one time you saw Canton teas, either painted boheas or lie tea, in almost every shop window. There were a great number of respectable shopkeepers who supplied the aristocracy, who never had any necessity to keep it; it was chiefly sold by those shopkeepers who supply the poor.

2609. What was it designated?—Fine pearl leaf gunpowder.

2610. Mr. *Moffatt.*] At what price was it sold?—Generally, 4 *s.* per pound; we found it all over the manufacturing districts; nobody would look at our genuine tea, they all preferred the painted and spurious tea; we found that Canton made tea was in general consumption all over the manufacturing districts.

2611. Mr. *Villiers.*] Do you mean that there was a preference for lie tea?—The people had been using the painted Canton and spurious green teas for some time, and had, to a certain extent, acquired a taste for it. They were also pleased with the colour. I must here state that my observations do not apply to lie tea exclusively, but to all spurious kinds, including painted bohea; they thought that the colour was natural to the tea.

2612. You were about to make some statement with regard to the sale of lie tea. You say that the publication of the "Lancet" stopped the sale of lie tea for a short time?—It has had a gradual effect; it has disappeared from the better informed districts; the districts in which persons reside who have access to the "Lancet" and other periodicals.

2613. Do you mean that lie tea has ceased to be sold?—Yes; at the present time, in consequence of the investigations of this Committee, you hardly see any green tea in any shop window in London.

2614. Is lie tea always green tea?—Sometimes it is black. There is a sample of scented caper (*producing the same*), which is also partly composed of lie tea.

2615. Mr. *Otway.*] Is this the tea of which you propose to prohibit the importation?—I propose to prohibit the importation of any painted tea.

2616. Is there a deleterious and unwholesome substance in its composition?—Yes.

2617. Mr. *Wise.*] Under what name or designation does this article called lie tea contribute to the revenue of the country?—It is sold as any other gunpowder tea or caper tea.

2618. Is it submitted to the Custom House as tea, although it is known to

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the officers of the Customs as lie tea?—It would be known to the officers if they examined it; they do not have to inspect it; but if it was all dirt they would take the duty on it.

2619. Mr. *Villiers.*] I presume the officers of the Custom House have only to do with the duty to be collected, and not with the quality of the tea?—Yes.

2620. What do you know of the sale of lie tea at the present time?—The exposures in the "Lancet" have had a very beneficial effect. I must say that the "Times" and all the papers have done a great deal of good in making known these reports. It has gradually gone out of all the best neighbourhoods, but now you will just find it in the neighbourhoods where the poor reside, in the manufacturing districts, where persons never read the "Lancet," and do not read much at all.

2621. Mr. *Villiers.*] How is this spurious tea described in the shops in the poor districts?—"People's tea," and "tea for the million." Here is some of the tea for the million (*producing the same*); it does not contain lie tea, but it is composed of black tea painted.

2622. Is it not sold at very reduced prices?—It is at very reduced prices now to what it used to be.

2623. Mr. *Otway.*] I thought you said it was sold at 4 *s.* a pound?—That was in 1851.

2624. *Chairman.*] What is it sold at now?—At a variety of prices, from 2 *s.* 10 *d.*, where they make it a leading article in London. In the country it is still sold at 4 *s.* or 5 *s.* a pound. I am here speaking of Canton green teas generally.

2625. Mr. *Villiers.*] Is there any other description of tea that could be sold as cheap as that at 2 *s.* 8 *d.* a pound?—This is a sample (*producing the same*) of good ordinary twankay tea; that is the material out of which the best kind of Canton gunpowder would be made.

2626. *Chairman.*] What is the price of that?—The same as lie tea, 8 *d.* per pound wholesale.

2627. Mr. *Moffatt.*] Has not lie tea a nasty taste?—Yes.

2628. Do not you think the public can judge for themselves between good tea and tea having a nasty taste?—No; they consumed millions of pounds, and did not find it out.

2629. In what year were a million of pounds of lie tea sold?—In 1851.

2630. What quantity has been consumed in the year 1854?—That I cannot tell. I am glad to say that less is sold than formerly.

2631. Do you believe half a million of pounds were consumed in 1854?—There is no data upon the subject.

2632. Is it not within your knowledge that the consumption of lie tea has decreased the last four or five years?—Certainly.

2633. Are you aware that there has been as much as 800,000 or 1,000,000 pounds of lie tea imported into this country in one year, and that there was not imported in the last year 200,000 lbs?—As long as the exposures last they will have the effect of preventing the sale to a large extent.

2634. Did not this decrease in the consumption of lie tea occur before there were any exposures by public inquiry?—Not at all; when we commenced trade we could hardly sell the true green tea.

2635. Who made those exposures?—"The Lancet."

2636. In what year?—In 1850 and 1851.

2637. Mr. *Villiers.*] Is there any means of discovering what quantity of lie tea is imported?—No.

2638. You cannot say whether one year there was 500,000 lbs. and the next year 200,000 lbs.?—It has never been distinguished; it has always been imported as green tea, or if it happened to be caper, as black tea.

2639. Mr. *Moffatt.*] Have you asked any brokers what quantity of lie tea is imported now?—I have made inquiries, but the brokers and dealers do not care to give any information on the subject.

2640. What did they tell you?—I have reason to know that there has been very much less of it, both imported and sold, since the exposures, than before.

2641. Viscount *Ebrington.*] Are there no means of ascertaining officially the amount of lie tea imported?—Not officially, because the Government have never kept any distinction between the two.

2642. If the Government were desirous of ascertaining the fact, would there be

be any great difficulty on the part of competent and experienced Custom-house officers, in distinguishing between lie tea and genuine tea?—None whatever. This is a sample of green tea without any paint whatever (*producing the same*), from Kumaon, in the Himalayas, 900 miles north-west of Calcutta. What I wish to recommend to the Committee is that no painted tea of any kind should be allowed to be imported. If a regulation of that kind was made, it would prevent the inferior kinds of tea being imported under superior titles, thus defrauding the public, and putting the honest retailer in a false position.

2643. Mr. *Villiers.*] Did you state that there is no such thing as tea naturally of a green colour?—This is natural green which I last produced.

2644. Your objection is, that any tea should be brought in of a particular colour, because you call that painted, do not you?—I would object to any painted tea coming of any kind, either painted black or green.

2645. Mr. *Moffatt.*] What do you mean by the designation of painted tea?—It is first coloured with turmeric and Prussian blue, and then faced with a substance similar to French chalk.

2646. Viscount *Ebrington.*] In short, you would prohibit the importation of tea which has been artificially coloured?—Yes.

2647. Mr. *Villiers.*] How can a Custom-house officer know what has been artificially coloured?—There would be no difficulty about it; any Custom-house officer would know it.

2648. Teas are of various colours, are not they?—Green teas are not naturally of different colours; artificially they are.

2649. Is all tea the same colour in China?—There is unpainted black, and unpainted green.

2650. *Chairman.*] Is black tea and green tea the same colour?—No.

2651. Mr. *Moffatt.*] You are giving the result of considerable experience of the growth of tea in China; will you tell the Committee the distinction between black tea and green tea?—I cannot of my own knowledge tell you, but I can tell you from the best available source, which is Mr. Fortune's work on tea. Mr. Fortune has been all over the black and green tea district, and he states, that the plant from which the Canton tea is made is called the *Thea Bohea*; it is a very inferior description; all the fine green teas, and even the fine black teas, are made from one plant, that is the *Thea Viridis.*

2652. The fine qualities of black tea and green tea are from the same plant?—Yes.

2653. How does that square with your recommendation to the Committee with regard to tea being kept of its natural colour, when one tea comes black and another green?—The difference between true green and black would be only in manipulation. Mr. Fortune explains that the different colours in tea between black and green arises entirely from the different mode of preparation. There can be no objection to this; but what I object to is the addition of artificial colour.

2654. Mr. *Wise.*] Does not it arise from the different temperature in which the leaves are roasted?—Not at all; black or green tea might be made from either plant. Mr. Fortune shows the result of an experiment which he made, in Calcutta, with the Chinese tea-makers he was conducting to the Himalayas, in which they did not use teas at all, but ordinary leaves out of the garden; and they produced a good-looking green tea from ordinary leaves.

2655. Is not green tea, for instance, roasted once, and black tea two or three times?—Black tea undergoes a kind of fermentation, and is also fired or roasted more than green.

2656. Some tea may be prepared by a different heat, and by a different process?—Yes.

2657. Mr. *Villiers.*] Do you think anybody in this country could be sufficiently experienced to decide, in the first place, what had been done with the same plant in the way of manufacturing process, and also to distinguish between the different qualities of tea?—Certainly.

2658. So that if any tea were purchased at a retailer's, and it were referred to such a person, he could say whether that tea was what it purported to be, and what were the real qualities of the tea?—He could tell if it were painted in all cases.

2659. You say he could distinguish between the qualities of inferior and superior tea, supposing there were not any very great difference that ought to

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enter into the price?—Any judge of tea, that is, any broker or experienced dealer, could tell you the difference in quality between any teas you chose.

2660. Could a tea broker always tell the difference in quality, and affix the price upon the different qualities?—They do now, up to a farthing a pound; the samples graduate from a farthing a pound.

2661. There would be no difficulty in obtaining persons with that amount of experience that would enable them to distinguish between the different qualities of tea?—Not at all.

2662. Is the fraud chiefly practised selling inferior teas for teas of a higher price?—It is. The evil which I wish to prevent is the painted teas being allowed to come at all, because the inferior teas are palmed off on the poor man, and he has to pay the 1 *s.* 9 *d.* per pound duty on what is intrinsically of little value.

2663. Painting is the mode in which the fraud is practised with the most success, and one of your remedies for this fraud is, that you would prevent any painted tea coming into the country at all?—Yes.

2664. How would you prevent the process of painting after it had come in?—If painted tea was discovered in any shop it should be made a punishable offence.

2665. Would you allow teas to be sold of different colours?—Only natural black and natural green.

2666. Might they not paint some inferior black teas, what you would call natural green?—If they did so, I should make it a punishable offence, if it was discovered.

2667. Your plan is to prevent the importation of any artificially coloured teas?—Yes; it would not injure the wholesale trade at all; it would result in an immense increase in the consumption of tea if none of this spurious tea was allowed to be sold. I would allow time for existing contracts to be completed; say one year for Canton, and two years for Shanghai, after which no painted tea to be allowed to enter.

2668. Mr. *Otway.*] Is the lie tea made worse by the retailer?—No, he could not make it worse.

2669. Lord *C. Hamilton.*] You apprehend that there would be no difficulty in discovering the artificial colouring of tea, and in that case you would prohibit the importation of tea in a coloured state, and make it a punishable offence to colour it in this country?—Yes.

2670. Do you apprehend, with a reasonable degree of honesty and knowledge on the part of those employed by the Government, there would be any difficulty in the mater?—None whatever.

2671. Mr. *Moffatt.*] What proportion of the importations into this country consist of black tea and green tea at this time?—I could not answer that question from memory.

2672. Can you tell what proportion of green tea imported into the country at the present time is what you term painted tea, and what proportion is unpainted?—It unfortunately happens that all the true green tea that is made in the true green tea district is painted.

2673. Is there any green tea imported into this country that is not what you term painted?—Only what comes from the Himalayas, Java, and Assam.

2674. Is there anything prejudicial to health in what you term the painting of green tea?—It is not necessary in any case. It only degrades us in the eyes of the Chinese; it is only employed to cheat the consumer; and I consider the Canton green teas are painted so highly as to be injurious to the public health.

2675. Mr. *Villiers.*] I thought you said it was imported painted?—Yes.

2676. The Chinese paint it?—It is done to order. The Chinese are the most accommodating people in the world. All this evil is done with the knowledge or by the order of the British merchant. A little while ago Assam teas, which are very superior teas, were selling at an enormous price, and in a very short time we found that there were Chinese teas coming over with the appearance of Assam teas; they were called Tysam. Those teas were made at Canton, and they got them artificially flavoured, somewhat to resemble the Assam teas.

2677. Flavoured with paint?—No, not flavoured with paint. They have a kind of malty flavour, which is natural to Assam tea; but the order must have gone

gone out from this country to match the Assam teas; it could not have taken place in China without an order from this country.

2678. Mr. *Moffatt.*] When were you last in China?—I never was there.

2679. Have you a correspondent there?—No.

2680. How do you chance to know that the Tysam tea is manufactured in Canton?—It has always been sold in the market as such; it has been always sold to retailers as China Assam.

2681. You have stated to the Committee that this is not tea grown in the tea district of China, but that this Tysam tea is manufactured in Canton; can you tell the Committee how you come by that knowledge?—I know that it is imported from Canton. The chests that have arrived with it have Canton marked upon them.

2682. Are you not aware that some of the very finest congou is imported from Canton?—Yes.

2683. And the finest souchong?—Yes.

2684. Do you believe that those teas are manufactured in Canton?—No, certainly not.

2685. What makes you think that Tysam congou is manufactured at Canton?—Because it was reputed in the trade; the teas were offered as being China Assams, or at least, China teas made to imitate Assam tea imported from Canton.

2686. Mr. *Villiers.*] They are sold in the market as an article called China Assams?—Yes.

2687. Mr. *Moffatt.*] Imported from Canton?—Yes.

2688. Does it therefore follow that they are made in Canton, and are not grown up the country, and manufactured up the country, as other fine teas are?—It is immaterial whether they are or not; it shows that the Chinese will do anything to order.

2689. Your previous evidence was that the Tysam tea was manufactured at Canton?—It is immaterial altogether.

2690. Mr. *Otway.*] As regards these teas, although the retailer does not make them more deleterious than they are at present, I understand you to say that he commits a fraud, inasmuch as he sells them under different names and at a very different price from that at which he buys them, and, beyond all question, at more than a fair profit, because he buys them at 8*d.*, and sells them at 2*s.* 10*d.*?—Yes; that includes the 1*s.* 9*d.* duty.

2691. Mr. *Moffatt.*] The duty paid tea costs the retailer 2*s.* 5*d.*, and he sells it at 2*s.* 10*d.*?—Yes.

2692. Do you think that that is a very exorbitant profit for a retailer selling quantities of half ounces and quarter of ounces?—No; but it is not the tea it is sold for; and if the consumer knew it was bohea he would not buy it. I conceive the poor man is very much injured; the real value of the tea is only about 6*d.*; it has less of the active principle of tea; less of thein.

2693. Then the person guilty of the fraud is the Chancellor of the Exchequer, who gets the greater share of the spoil out of the poor man's pocket in the shape of the 1*s.* 9*d.* duty?—No, certainly not; the present equal duties were not imposed at the request of the Government, but at the request of the tea trade.

2694. Mr. *Villiers.*] I think you have only stated one remedy for stopping the series of frauds which seem to be practised in the trade; you propose to stop the importation of all coloured tea, and of course the right of mixing with any other substance whatever?—Yes.

2695. That would stop adulterated tea being imported and its being mixed with inferior tea?—Yes.

2696. Without going into that question, you have suggested that by a different mode of levying the duty, the quality could be ascertained at the Custom-house?—I think the present mode of levying the duty would do, if coloured tea was prevented from being imported at all.

2697. I understand you to say, that there are two sources of fraud, one colouring the tea, and the other mixing the tea before it comes into the country; you might prevent painted tea being imported at all, but I understood you to say, that there was a mode of preventing mixed teas being brought, by levying the duty according to the quality?—No, I would still levy one duty; the very fact of preventing the importation of painted tea would prevent the lie tea

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from coming, for if it was not painted it would not be sold, the fraud would be so transparent.

2698. Have you any remedy to suggest to prevent the mixing of tea in this country, there being teas of different qualities imported?—That would not be desirable.

2699. You are in the interest of the poor man, are you not?—Yes.

2700. You have stated that very inferior teas are sold at a high price in the poorer districts?—Yes; it nearly all takes place with green tea and not with black tea; most of the black teas have very distinct qualities; perhaps some of them are very deficient in strength, but have a superabundance of flavour; others plenty of strength, but little flavour; and it would be very much better to allow such teas to be mixed together.

2701. We are upon the subject of fraud; are there not different qualities of black tea?—Yes.

2702. Is it not a fraud to sell an inferior black tea at the price of a superior black tea?—I do not see how it can be prevented.

2703. You say that there are people sufficiently experienced in this country to detect that fraud?—Not the mixture of black teas, but the spurious green teas.

2704. You say that no broker could detect whether there was a mixture of inferior black tea with the superior?—A broker could detect it; it would not be desirable to prevent their being mixed.

2705. Is it possible to detect the different qualities when they are so mixed?—If they were of very different qualities; if two congous were mixed together you could not tell; if congou and bohea were mixed you could find it out; or if congou and souchong were mixed you could detect it; if there was a mixture of Kaisow congou with Hohow or Moning congou you could not tell them.

2706. You are anxious to prevent a low priced article being sold at a higher price than it ought to be?—Yes.

2707. You have no remedy to suggest with regard to black tea?—No.

2708. Your only remedy with respect to painted tea is by checking its importation?—Yes.

2709. If it was proved that any painting took place in this country, would you make that a punishable offence?—Yes.

2710. Have you any evidence to show what injury is done to health by selling these painted teas?—It is not so much an injury to health as it is a fraud upon the consumer.

2711. Is this painting deleterious; is it poisonous?—I think so.

2712. Have you any evidence as to the injury it produces upon the health of the poorer classes, by whom you say it is most generally consumed?—I could not tell the kind of disease which it produces, but the material is proved to be prussiate of iron; in the Canton teas it is used to a large extent.

2713. You have made inquiries into the subject, but you are not particularly informed about the medical effects?—Not of the nature of the disease it would produce.

2714. Mr. *Otway.*] You have no medical knowledge, have you?—No; many medical men have told me that it would be very desirable to prevent such stuff being sold.

2715. Mr. *Wise.*] Do you mean to say that there are no frauds practised in this country with respect to tea?—To a very small extent; the Excise look after all that sort of thing, and if a man was guilty of making sloe leaves into tea he would be very likely to be punished; it is a punishable offence.

2716. Do not you believe that tea leaves are dried and coloured in this country, and sold as tea?—Evidence given before the Excise in 1851 proved that the practice existed, but I think there is very little of it going on at the present time.

2717. Have you heard of any filings being found in tea to increase its weight?—I saw some old samples ten years ago in which some feruginous matter existed; the magnet attracted it, but I never met with it myself.

2718. What remedy would you suggest, independently of that at the Custom House, for the protection of the public with reference to tea, and other articles?—That is the only remedy which I can suggest at the present time for tea, and I think it would be effectual. For other articles a staff of qualified inspectors would be advisable.

2719. Mr. *Moffatt.*] Will you explain to the Committee what you call "prussiate" of iron is?—It is Prussian blue.

2720. Prussian blue you state of your own knowledge, or on credible authority, is very injurious to the public health?—Medical gentlemen have told me so.

2721. Taken in the quantity in which it would be used to make tea a brighter green?—Taking the quantity which is used in Canton, it is injurious.

2722. Can you state what medical authority informed you that "prussiate" of iron, as you term it, was found in tea?—You can find it in the "Lancet."

2723. Can you state the medical authority who informed you of the existence of what you term "prussiate" of iron in tea?—I have read Mr. Warrington's analysis of the colouring material brought home by Mr. Fortune; Mr. Fortune brought samples of the colour he saw used in the manufacture of green tea, and he gives Mr. Warrington's analysis of it in his book.

2724. Mr. *Villiers.*] You do not know that tea is painted extensively in this country?—I believe it is not painted in this country; it is already sufficiently done in China.

2725. Have you ever detected tea being painted in this country?—Never.

2726. Mr. *Moffatt.*] You have given evidence that green tea is coloured?—Yes.

2727. And you state that owing to that colouring it is prejudicial to the public health?—True green tea is not coloured to hide the material, and therefore there is not a sufficient quantity of colouring matter to injure the public health; but you cannot prohibit the Canton green, which is painted so extensively on purpose to hide the material of which it is composed, without prohibiting the true tea from being painted.

2728. Will the prohibition of painted tea put a stop to the importation of this spurious tea and carry out the wishes of the trade?—I think it would.

2729. I thought you stated that there was lie tea imported under the name of scented caper?—That is also painted; it is not painted green, it is coated with black lead.

2730. What remedy would you propose with regard to tea which is coated with black lead?—It all comes under the same denomination; it is all painted; and I would exclude any painted tea, black or green.

2731. Mr. *Wise.*] In fact, you wish the public to drink the tea which the Chinese drink themselves?—Yes; they think we are barbarians for using these painted teas.

2732. Mr. *Villiers.*] Do the brokers know that lie tea is imported?—Yes; the lists show that they sell it as spurious tea. In the list of the 7th of March, you see spurious tea quoted, that would be lie tea as well as painted bohea.

2733. Where do these sales by auction take place to which you refer?—Mincing-lane.

2734. Every month?—At different times; not at any stated times; but a great deal is sold by private contract.

2735. By the wholesale houses?—Yes.

2736. In that case you do not know how much lie tea is sold?—That is partly one reason why it cannot be ascertained.

2737. It is not entered as lie tea, is it?—No; it is always entered as gunpowder tea or scented caper.

2738. Mr. *Moffatt.*] Have you any information to enable you to state to the Committee that there has been within the last 12 months 100,000 lbs. of lie tea sold?—There is no data to show it.

2739. Do you believe it?—I could not state it.

2740. Have you ever ascertained from any well informed broker the quantity imported within the last 12 months?—I have frequently asked the question, and have been told that there is very much less coming than there was before the exposures.

2741. Mr. *Villiers.*] Would the brokers be likely to tell you?—The brokers do not like to give any information in this matter; they leave it to the trade to buy lie tea if they like; it is not their affair.

2742. Mr. Alderman *Cubitt.*] You have produced some samples of lie tea. I think you said that you inquired for lie tea?—For the purposes of this Committee. I was summoned here three weeks ago.

2743. Mr. *Moffatt.*] The samples of lie tea which you have produced appear

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to have been offered to the public about six months ago; the inference from your statement is, that that was the most recent sample of lie tea which you have been able to find?—This is also a sample of lie tea brought to me by a customer; he stated that he wanted me to examine it.

2744. Can you state whether the consumption of lie tea has increased or decreased?—I have already stated that the consumption has decreased.

2745. Are you aware, of your own knowledge, of a single pound of lie tea being imported during the present year?—I cannot state it.

2746. Have you asked any broker, or those who should know, whether there is any lie tea imported now?—I believe there is very little, and there will be very little as long as there is any exposure.

2747. With regard to painted tea, you deal in tea, do you not?—Yes

2748. Do you sell green tea?—Yes.

2749. Are you so fortunate as to get tea like the sample from Kumaon, or do you deal in painted teas also?—There are no genuine unpainted teas that come from China; we buy those that have the least possible amount of paint; we cannot get them without paint; and it is because we cannot get them that I want the Committee to prevent the importation of any painted teas.

2750. Mr. *Otway*] You cannot purchase green tea that is not painted, can you?—No, except in small quantities, which come from the Himalayas, and some other places; there is no continuous supply.

2751. Mr. *Moffatt.*] You were understood, at the commencement of your evidence, to say that the public would not take good tea before your firm appeared in the tea trade; that they disliked the good tea; is that the fact?—You must not understand that I attribute the good that has been done in undeceiving the public to ourselves; we have done what we could, but I believe the improvement has taken place from the exposures in the "Lancet," and the press generally.

2752. In your opinion, prior to 1850 and 1851, the public hardly liked good tea, but by reason of the exposures in the "Lancet" the public have come to like good tea?—We found the public had been accustomed to tea of a vivid colour, and objected to the dingy colour of true tea.

2753. *Chairman.*] Will you state briefly to the Committee what you have to say upon the subject of coffee?—We consider that the mixture of chicory with coffee is an adulteration, and that it is prejudicial to the fair trader, the consumer, and the revenue.

2754. Do you mean that you object to the mixture of chicory and coffee if it be distinctly stated to the buyer that it is a mixture of chicory and coffee?—Yes, for this reason, the proportions are never stated; there may be one ounce of coffee and 15 ounces of chicory, or one ounce of chicory and 15 ounces of coffee. If you once open the door to mixture you can never prevent the mixture from going to an enormous extent.

2755. Do you believe it is mixed in such a proportion as one ounce of coffee and 15 ounces of chicory?—No; the usual proportions of shilling coffee is half chicory and half coffee.

2756. Is that injurious to the fair trader?—It is injurious to the fair trader, the revenue, and the consumer.

2757. It is injurious to the consumer as being a fraud upon his pocket?—Yes. A pound of native Ceylon coffee, which is the cheapest kind of coffee, when roasted, costs the grocer 1 *s.*; if he sells that at 1 *s.* 2 *d.*, he gets 2 *d.* per pound profit, or 14½ per cent. The mixture usually sold at 1 *s.* per pound is half chicory and half coffee; the mixture costs the grocer 7 *d.*, that is 6 *d.* for the half pound of coffee and 1 *d.* for the chicory; the grocer would therefore get 5 *d.* on every pound, or 41⅔ per cent., and that would enable him to sell 16 per cent. cheaper than the fair trader, and he would in reality realise 27½ per cent. more profit.

2758. Are you of opinion, if the grocer were to put outside the packet that it was half chicory and half coffee, the public would not buy it?—It would be better that each article should be sold by itself under its own name.

2759. Do you think the proportion of chicory is so great, that if the public knew it they would not purchase it?—I think they would not. One of the bad results arising from this permission to mix the two articles is, that it produces a lax morality in trade. The traders get such enormous profits on the mixture of chicory that they are enabled to sell other articles, such as sugar,

sugar, below their actual cost. We have had some experience in the matter. When we first commenced, the permission to mix chicory with coffee was in force. We always sold our sugar at a little above the cost price, and when we commenced we found we were always a halfpenny a pound more than the rest of the trade. When the permission to mix chicory with coffee was done away with, as it was for about two months, the trade having no longer this immense fund out of which to make up their losses, immediately left off selling sugar at a loss, and sold it at a profit.

2760. Mr. *Peacocke.*] What date are you referring to?—1851.

2761. Do not you think that the selling of sugar below its cost price might have been produced by other causes than the great profit realised by mixing chicory with coffee?—As we found that they stopped selling at a loss when the permission to mix chicory with coffee was done away with, we attributed the selling at a loss to that permission.

2762. Was not it about 1851 that this question was first agitated?—Yes.

2763. Previously to 1851, do not you think the sale of sugar below its cost price might have been caused by its being materially adulterated?—I think very little adulteration ever took place in sugar.

2764. You do not know to the contrary?—No.

2765. *Chairman.*] Do you sell sugar?—Yes.

2766. Mr. *Peacocke.*] You mean that the wholesale houses do not adulterate the sugar?—And the retailers also. There is very little adulteration in sugar.

2767. Mr. *Moffatt.*] You never heard of adulterated sugar being sold to the public?—I have heard of it, but never largely.

2768. What was it adulterated with?—Some kind of starch. The starch is soluble in hot water, and sugar is generally used with hot water, and hence it is not readily detected, as it leaves no sediment.

2769. What is the value of starch per pound?—It was sago flour; it used to cost somewhere about 19 *s.* or 20 *s.* a cwt.; it was never done to any very large extent. Sago and potatoe starch were sometimes treated with dilute sulphuric acid, and which gave it somewhat the properties of sugar, and used to adulterate sugar with.

2770. *Chairman.*] Do you believe that there are any other adulterations of coffee except the mixture with chicory?—No, I think not. The annual consumption of chicory has been ascertained to be about 12,000 tons, and the annual consumption of coffee is about 17,000 tons. We have had a little experience in selling the two articles; we have always sold our chicory very cheap. We have never recommended or discouraged the use of it; we always sold it separately, letting the consumer buy if he chose, and we found that the public buy of us 1 lb. of chicory where they buy 9 lbs. of coffee; so that we conclude if the public were left to buy the two articles separately in the quantities they required, they would only consume in the course of the year about 2,000 tons of chicory.

2771. Mr. *Moffatt.*] How have you ascertained that the consumption of chicory is annually 12,000 tons?—It is stated in the Report of the proceedings on the part of the coffee interest in 1853.

2772. Mr. *Villiers.*] Do you import chicory to a certain amount?—It is all imported. At the present time there is none grown in this country, at least very little. This statement was given in evidence before Lord Derby (*handing in the same*).

2773. Was this evidence got up by the coffee growers in Ceylon?—It was. They stated that they took the means to ascertain at all the railway stations, and other places, the actual quantity that was brought from the places of growth, and they gave sufficient evidence before the Government of the day to convince them that there were 12,000 tons of chicory consumed.

2774. How can you ascertain the quantity of coffee consumed?—The quantity imported and the quantity consumed is kept distinct. The quantity that pays duty is considered to be the quantity consumed.

2775. I suppose an immense quantity of what is sold for coffee is more chicory than coffee?—Yes; our experience is that the public buy one pound

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of chicory and nine pounds of coffee; therefore, if the public were left to themselves they would only buy 2,000 tons of chicory, as chicory, in the course of the year, whereas now 12,000 tons are consumed; therefore we conclude that 10,000 tons are forced on the public against their knowledge.

2776. You have told the Committee that 12,000 tons of chicory are annually consumed, and you have discovered, by another calculation, that the consumption is only one ton of chicory to nine tons of coffee?—Our experience is, that only one pound of chicory is bought as chicory, for nine pounds of coffee, so that the public buy a tenth of chicory.

2777. Mr. *Moffatt.*] Will you inform the Committee how you arrive at the conclusion that there are 12,000 tons of chicory used annually?—From the report in this book.

2778. You have placed in the hands of the Committee a book which appears to be an anonymous pamphlet?—It is got up by the coffee interest.

2779. It bears no name?—You will find the names of gentlemen, Baring Brothers, and a number of others in it.

2780. Mr. *Villiers.*] Did you say that the Government did not dispute the accuracy of the statement?—Yes; there are some of the highest names in the mercantile world appended to it.

2781. Mr. *Moffatt.*] It appears by the fifth page of this pamphlet that certain merchants met and entered into a subscription to inquire into the extent of the use of chicory in coffee, but I do not find in this pamphlet that they guarantee or sanction this statement of 12,000 tons of chicory being used annually?—They state there that they ascertained it in such a satisfactory manner as to convince Lord Derby.

2782. Mr. *Villiers.*] They do not state the amount of chicory sold as coffee, but only the amount of chicory consumed in this country?—Yes.

2783. Is not chicory used for other purposes?—For no other purposes than the adulteration of coffee.

2784. Mr. *Otway.*] Do you attribute importance to that statement in consequence of the names that are attached to it?—Yes; I have no doubt that the names are a guarantee that the statements are correct.

2785. Will you read the names?—Baring Brothers; Gregson & Co.; Frith, Sands & Co.; Ceylon Plantation Company, per R. B. Tennent; W. Tindall, Esq.; Small & Co.; Matheson & Co.; Crawford, Colvin & Co.; S. Rucker & Sons; Somes, Mullens & Co.; T. H. Young, Esq.; Scott, Bell & Co.; C. W. & F. Shand; T. & H. Littledale; Waterhouse & Sons; Shand & Co.; Phipps & Co.; Forbes, Forbes & Co.; Price & Bousted.

2786. Do those gentlemen guarantee the statement contained in that pamphlet?—They do not guarantee it; but I have no doubt that no false statement would be permitted to go out to which their names were attached.

2787. Mr. *Kinnaird.*] Have you read the pamphlet?—Yes.

2788. As far as you can judge, it bears upon it evidence that those gentlemen sanctioned that statement?—Certainly.

2789. Mr. *Moffatt.*] At what time was this pamphlet published?—1853.

2790. Are you not aware that the names which you have read refer to a meeting which took place in 1851, at which those merchants were present, in reference to the consumption of chicory and coffee?—The expense of all those proceedings was defrayed by those gentlemen, and the book was printed with their funds; the book states so in its body, and I of course conclude that they sanction the statements contained in it.

2791. Mr. *Otway.*] Is that book published under the authority of those gentlemen whose names you have now read?—It was published with the funds contributed by them.

2792. Under their authority?—The pamphlet does not positively state that; it is got up entirely for circulation amongst them.

2793. By funds contributed by those gentlemen whose names you have read?—Yes.

2794. Those gentlemen must approve of the statement if they circulated it with their funds?—Yes.

2795. Mr. *Moffatt.*] Will you show the Committee whereabouts in that pamphlet it is so stated?—"In July 1851, at a meeting of merchants and others interested

interested in Ceylon, it was unanimously resolved to raise a fund for the purpose of preventing the adulteration of coffee, to which the following firms subscribed." Then follow the names which I have read. "From this fund the expenditure to the close of December 1851 was liquidated, and no contributions were called for from the other firms interested in the struggle."

2796. Will you read the passage in this pamphlet which shows that those gentlemen sanction the statement which you have just made?—I do not think the book contains a statement from the gentlemen that they sanctioned it, but it was all done with their funds.

2797. *Chairman.*] Have you any means of showing that that pamphlet was published with the authority or under the direction of those firms whose names have been read?—It was printed for circulation amongst the coffee interest; it was not got up for circulation amongst the public; it is appealing only to themselves. The pamphlet is addressed to those gentlemen, and to the trade interested in the importation of coffee.

2798. Can you inform the Committee who wrote that statement?—I really could not. I dare say Mr. Moffatt could inform you better than I can.

2799. You are not able to state that that pamphlet has been supervised by those gentlemen whose names have been read, and that it comes out with their authority attached to all the statements in it?—I could not say that those gentlemen vouched for everything in the book.

2800. Mr. *Moffatt.*] Are you not aware that in the interval between 1851 and 1853 many of the gentlemen whose names you have read took no further interest in the question of the mixture of chicory with coffee?—One gentleman, who took a very honourable part in that transaction, and endeavoured to prevent the mixture of chicory with coffee, but the retail trade acted in a very unfair manner to him; they entered into a combination not to deal with him, and in consequence of that opposition on the part of the retailers he has withdrawn.

2801. *Chairman.*] All you meant to state when you gave the amount of the annual consumption of chicory from the statements in that pamphlet was, that you individually believed that that was the annual amount?—Yes, because they state that they made the same representations to Lord Derby, and they were sufficient to convince him.

2802. Mr. *Wise.*] You have stated in your evidence that chicory is very largely used in this country; how is that chicory prepared, and by whom?—The chicory which is now used is mostly grown in Holland and Belgium. It is sent over here in the root, and is sold in the root; the grocers send it to the roasters, who roast it, and then it is brought home roasted to the grocers, and they grind it.

2803. Do the grocers always grind it themselves?—In some cases they buy t readyground; in most cases they grind it themselves.

2804. Do not persons who carry on the specific trade of drug grinders carry on the trade of chicory grinders also?—In many cases the grocer sends the raw chicory to the coffee roasters and it comes home to him ready ground.

2805. Have you ever heard that parsnips and carrots are treated in the same way as chicory, and dried and ground for the purpose of adulterating coffee?—That used to take place some time ago.

2806. You have stated that chicory is very little grown in this country; is it not grown largely in Yorkshire, Bedfordshire, and Surrey?—It used to be at one time; but since the high price of corn the farmers found they could turn their land to better account. I believe there is very little chicory grown in this country; nearly all that is being offered for sale is foreign grown.

2807. Are you of opinion that the chicory which is now sold is rarely contaminated or mixed with any other article?—Chicory can be grown as cheaply as any other substance; as cheaply as parsnips; and there is no inducement to practice any fraud of that kind. I should wish to recommend the prohibition of the mixture of chicory with coffee, in justice to the fair trader; he cannot compete with other grocers who use the mixture; it gives the mixer such an advantage over the fair trader that it is impossible to conduct trade fairly while this mixture is permitted.

Mr. *William Atkinson*, called in; and Examined.

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2808. *Chairman.*] YOU are a Wholesale Druggist, I believe?—A Manufacturing Chemist of medicinal articles.

2809. You are anxious to give evidence in order to show that adulteration does not exist in your trade to the extent which has been previously stated to this Committee?—Yes.

2810. Will you have the goodness to state to the Committee what is your reason for that opinion?—I beg to inform the Committee, with regard to my experience, that I commenced business in 1819. At that period the business I undertook was medicinal chemistry, and with it there was united a large establishment for drug grinding that had been put up in connexion with the supply of the army during the late war. When the supply for the army ceased, those mills were more open to the public generally to send their drugs to be ground. At the period of my commencing, I found that there were great improvements required in the system of managing and preparing the medicines by grinding, and those improvements had been commenced by one wholesale drug house. With regard to the manner or the custom of managing, I found there was a system prevailing through the wholesale drug trade of requiring what was called the four per cent. The drugs sent to be ground were required to be returned with the loss of only four per cent. The working of that system was this. Take the case of opium. Supposing opium were sent to the mill, and it were required to be returned with only a loss of four per cent., as opium loses a great deal more, it had to be made up with some innocuous matter; vegetable matter, or something like opium must be employed, not containing the opiate principle, but the other part of opium. The working was this: when the four per cent. was deducted, the strength of the opium would be the same as the opium of the market; it would be just the same strength as the lump opium brought from abroad; the powder would be of a uniform strength, deducting only the four per cent. That system of four per cent. was carried on throughout. When I began to confer with the druggists about the improvement, the first thing I told them was the necessity of abolishing that system. We talked about the improvements required in the preparation of medicines generally, and I told them that whatever they sent would be done in the most strict way, so that the quality returned would entirely depend upon themselves. I recommended the abolition of the four per cent. system. At that time, being an established custom, there was a little difference of opinion, and although they necessarily saw the improvements, they felt a little doubt as to the policy of making medicines stronger, because we know it is possible to give an over-dose as much as an under-dose, and an over-dose sometimes would be more injurious than an under-dose. Some did not like the idea of altering an established system, and difficulties arose; but, however, the necessity of improvement was evident to all. The improvement was applied first to one article, then to another article, by one house and another house, and as the improvement was seen to give satisfaction, and to be desirable, it was continued; so that by degrees the system was altered.

2811. Mr. *Peacocke.*] What does opium lose in grinding?—It varies, being a moist preparation.

2812. How much per cent.?—Sometimes 13 or 14 per cent.

2813. Were physicians in the habit of making up their prescriptions with reference to the four per cent. loss; with regard to the opium in its adulterated form?—They must have made their prescriptions up with reference to the established custom.

2814. That is to say, knowing it to be adulterated, they made up their prescriptions with reference to its adulterated form?—It must have been so.

2815. *Chairman.*] You state that you took steps to abolish this system?—Immediately

2816. Do you believe it to be abolished at the present time?—I was coming to that; I saw amongst my connexion in the City a gradual change from article to article, one house doing this and another house doing that; I saw a gradual abolition of the four per cent. system.

2817. Mr. *Wise.*] Do you mean by the four per cent. system, a loss of four per cent. only?—Only four per cent.

2818. Mr.

2818. If I understand you rightly, you say the druggists only submitted to a loss of four per cent. upon their articles?—Yes.

2819. Is there not considerable moisture in all vegetable substances?—It varies very much.

2820. Does not it vary as much as 10 to 15 per cent.?—Yes, in some articles.

2821. From the evaporation of the moisture during the operation of grinding?—There is not so much loss in grinding as in drying in the stove; all vegetable substances are aqueous and the evaporation takes places in the drying process in the stove; there is a much greater loss than four per cent. in grinding drugs of a vegetable character; though bark being very dry would not lose much more.

2822. Does not the loss approach nearer to 10 or 15 per cent. than to 4 per cent.?—I have a table here which I will show you. After this improved system had been working some years the Pharmaceutical Society was established under a charter, and the members of that society were very anxious to ascertain the nature of the existing system of preparing medicines by grinding, and they ordered an inquiry to be made by one of their professors, Professor Redwood, as to the existing state of the preparation of drugs, for there had always been an anxiety on the part of all medical men, and also the druggists, upon the subject. Professor Redwood proceeded to make an inquiry, and he came to me, amongst others, being the oldest in the trade, and having most experience and information as to the custom of the trade. I then gave him the information, and he also made inquiries of other houses. I explained to him the established custom of the four per cent. system, and also its gradual abolition. When he was making that inquiry he also made inquiries as to the average loss the drugs would bear. In the transactions of the society for the year 1848 an account of the existing custom was published, and also a table, which I will now refer to, of the losses of a certain number of drugs, to give an idea generally.

2823. *Chairman.*] What is it you are going to read?—This is an account of the average loss which some drugs actually bear.

2824. By whom was the information given?—It was furnished partly by us; I agreed to the evidence which Mr. Redwood had got generally; he asked me to look over this table, furnished by another house, and I concurred generally; there was a trifling difference; but my experience confirmed this table.

2825. Mr. *Wise.*] In fact, you are going to show, as I understand you, the difference between the loss of four per cent., which the chemists and druggists submitted to, and the actual loss which the grinders found it necessary for them to submit to?—Yes.

2826. Will you state some of the leading articles?—Here is bark; pale bark loses 6 lbs. 6 oz. per cent.

2827. Per cent. or per cwt?—Per cwt.

2828. What is the loss upon scammony?—Seven pounds four ounces.

2829. Ipecacuanha?—Five pounds three ounces.

2830. Rhubarb?—There are three kinds down here; Turkey, 5 lb. 12 oz.; China, which is commonly called East India, 6, and English, 7 lb. 13 oz.

2831. Sarsaparilla?—Jamaica sarsaparilla 10 lb. 1 oz. per cent.

2832. Jalap?—Eight pounds 12 oz.

2833. So that, if I understand you correctly, the custom of only losing four per cent. was an impossibility if the drugs were honestly ground?—They were required to be made up with some simple matter analogous to itself. Jalap contains a great quantity of woody matter besides the active principle; bark the same; the active principle is one thing, and the fibrous inert woody matter is another; nearly all drugs in a state of nature have inert woody matter, and they have the active principle, and the custom was, as a matter of course, to find some material as analogous as possible to the material to be acted upon; something quite inert; the thing generally used was lignum vitæ; it was the commom custom to use it, it being a thing innocuous, without taste and without any scent, as analogous as possible to the material of jalap or bark.

2834. *Chairman.*] I think I understood you to say, that the chief cause of loss in the process of drug grinding was owing to the evaporation?—Yes.

2835. Therefore what is lost is water?—Yes.

2836. That loss of water you supply with the lignum vitæ, which you can hardly

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hardly call analogous to water?—I mean in the effect upon the stomach; not analogous to the natural element.

2837. Mr. *Wise.*] When the druggist required the drug grinder to make good the loss, was not it done in various ways?—No.

2838. There is a term which I have no doubt is familiar to you, "powder of post;" was that used by you?—No.

2839. Is not sawdust used largely for the purpose of cleaning out the mills?—Water and sawdust.

2840. So that a good deal of sawdust might be left in the mill?—No.

2841. Mr. *Kinnaird.*] A more scientific adulteration than sawdust is used?—Was used under the old system, as before described.

2842. Mr. *Wise.*] Was sarsaparilla ever ground with liquorice root, or any other substance?—No.

2843. Is not Jamaica sarsaparilla at this moment mixed with inferior varieties, such as Honduras?—No.

2844. Are not inferior varieties substituted for Jamaica sarsaparilla?—We only know as to the grinding; the substitution comes afterwards; the substitution is by the person who uses it.

2845. The article must be ground before it is substituted?—Of course; there is no substitution with us; the substitution is by the man who administers it. For instance, a thing is sent into us to be ground, and we grind it.

2846. You grind whatever you are required to grind; have you ground inferior articles?—Yes; when articles are sent in to be ground, it is not for us to ask what they are, excepting in cases of palpable adulteration, or who they are for; it is only for us to pledge ourselves that they are faithfully done.

2847. *Chairman.*] Will you state to the Committee the object with which substances such as lignum vitæ are mixed with the drugs that are ground?—Of course I could not answer that, because the system sprang up before I had any intercourse with the trade.

2848. Cannot you tell why the trade wished it to be done?—I only know it was an established custom.

2849. Mr. *Peacocke.*] Would not water have done as well?—No.

2850. Why not?—Because water would make the drug soft.

2851. *Chairman.*] Was not the object of the mixture to enable the person who sent the drug to be ground to receive back a larger quantity of that drug than he would have been able to do if the drug had been pure?—I think not; I do not see the object in it.

2852. What object had it, in your opinion?—I cannot see an object, and immediately I began to have experience, I recommended its abolition.

2853. Mr. *Peacocke.*] Is it not perfectly clear, that by this evaporation what the drug loses by being ground, it does not lose in strength, but rather gains in strength; by taking out this 13 or 14 per cent. of water, would it not strengthen the remaining portion of the drug?—The proportion of the active element would be larger.

2854. Mr. *Wise.*] You stated just now that you ground anything that was sent to you; have you ground damaged ipecacuanha, damaged rhubarb, and articles of that description, which are unprofitable in the pure state; are they ever sent to you for the purpose of grinding to make them more profitable?—I was coming to that. I have made an arrangement of the matters I wish to explain. I have explained the grinding, and there are some other points I wish first to lay before the Committee.

2855. Mr. *Peacocke.*] You say that a drug gains in strength by having 13 or 14 per cent. of water taken out by evaporation; therefore you might adulterate it to a certain extent, and yet really restore it to its original strength?—That was the operation of the system.

2856. It does not at all follow because you withdraw 13 or 14 per cent. of water that therefore it gains 13 or 14 per cent. of strength?—The element must remain the same; you take away some of the inert matter which is in the commodity in its native state; the element or active principle remaining the same, the abstraction of 13 per cent. of inert matter would give you increased strength; the proportion must remain. I wish to show to the Committee that that system is entirely abolished, so that when the inquiry by the Pharmaceutical Society was instituted, the evidence given to their inquirer was the same as I have given to the Committee to-day.

2857. *Chairman.*]

2857. *Chairman.*] Are the Committee to understand you to state that, as far as you know, the practice of mixing what you describe as inert matter with drugs after they are ground has entirely ceased?—Entirely ceased. I should very much like just to comment upon the evidence of one gentleman; it is only for the sake of giving an illustration, which I am sure he would not object to; it is the evidence of a most respectable man. I refer to Mr. Warrington, who stands in a very responsible position. Mr. Warrington, in his evidence, was asked this question: "You say that you generally grind your own drugs; from inquiries which you have made in the trade, is it your opinion that a great deal of adulteration takes place on the part of the grinder?" Mr. Warrington's answer is, "We were forced to grind our drugs by the fact of that adulteration. Even when the Society of Apothecaries sent a man to the drug mill to superintend the grinding of their own drugs, he was taken down to dinner or to lunch, or something of the kind, and all kinds of tricks were played with the drugs." Now the Committee will see that that is really most serious. I do not say that it is a direct allegation, but it is an implication of a most serious character. Of course we all felt it to be so, and the public reading the reports which are published in the newspapers, must have their confidence shaken; it will be a most serious thing in families where this statement is read. I wish to call the attention of the Committee to this fact: Mr. Warrington stands before the world as a very responsible man, holding a high position in the Apothecaries' Company, and the Apothecaries' Company carry on their business well and correctly in every way. You will see by putting the question and answer together, that the period is not fixed by Mr. Warrington himself when this applies to. The time when this applies to, and the only time it could apply to, was before the Apothecaries' Company erected their mills, because they say we did it because we could not get it done; therefore it brings the mind of the Committee to the period when Mr. Warrington derives very bad evidence on which to ground the necessity of putting up their mills. I beg to assure the Committee, although I have not the fact before me, I have it very nearly. I have a little work which gives the origin of the various establishments of the Apothecaries' Company, published by themselves in 1823. No reference is made in this work to the precise period when mills were put up, but if the Committee should think it worth their while to ask Mr. Warrington to give the date of the erection of the mills, it would bring before the Committee the time when that horrible state of things existed that they were obliged, from the dishonesty of the drug grinders, to resort to that proceeding.

2858. *Chairman.*] Will you have the goodness to read the passage from that book, which shows that the mills were established at that date?—They are alluding here, generally, to their different modes of carrying on business, and their having no articles of inferior quality in their possession, "and as far as is practicable conducting all the process within their own walls, particularly that of powdering drugs at their own mills, by which a fruitful source of fraud must be prevented." This bears date 1823, and if the Committee would get from Mr. Warrington the fact of the date, it will be proved to you, I am quite satisfied, that the fact Mr. Warrington alludes to occurred long before he had any connexion with the Apothecaries' Company, and I think it will be proved to be before he was born. I feel very certain that it was more than half a century ago, and he had that evidence handed down to him by tradition only.

2859. Mr. *Peacocke.*] When you say that this adulteration is at an end, you speak only of your own establishment, I presume?—Of course I only speak positively of my own establishment.

2860. You cannot say that it is at an end in other establishments?—No.

2861. Have you ever inspected any other establishments?—No. I have my belief arising from experience, just the same as Mr. Warrington; he might give a great deal of evidence as a matter of opinion and not of fact. I am speaking of fact myself; but I have my impressions upon the subject as others have.

2862. Mr. *Wise.*] You do not deny that toll has been taken by drug grinders or that adulterations have taken place by mixing different things?—I have heard, as others have heard, some remarkable stories handed down. Parliament, by its Committees, has had evidence brought before it of a most extraordinary character, several times.

2863. Perhaps you think the drug grinders would not object to pay a licence

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and be subject to frequent inspection?—I should think not. I should not object if a party wanted to send a man to see his drugs ground, except I might say, "I would rather be trusted." I would rather you should be convinced that there is nothing objectionable going on.

2864. *Chairman.*] At what time was it that this practice, to the best of your belief, ceased?—I can only speak of my own experience. I began in 1819, and I have never done it.

2865. You have stated to the Committee that at the period when you began business the practice was a general practice?—That is a different thing from what Mr. Warrington alluded to.

2866. That practice, you say, existed generally when you first entered business?—Yes.

2867. When, to the best of your belief, did it cease?—It went on gradually. One house would adopt this, and another house would adopt that; year after year it went on, being applied to article after article. You must understand that we have very numerous articles in drug grinding, it is not like one article; they vary in importance.

2868. Mr. *Peacocke.*] Cannot you tell the Committee the year from which you date the decline of the adulteration?—1819.

2869. *Chairman.*] From the year you entered into business?—Yes. The next thing I wish to explain to the Committee is with regard to compound horse powders. It has been stated before the Committee that in preparing compound powders for horse medicines it has been the prevailing custom for the person carrying on the administration of horse and cattle medicines to require certain powders, about 12 in number, to be prepared for them in a reduced state: they are more likely articles flavoured, as I understand—I am not at all conversant with horse doctoring; when they want to give strong doses, a dose of antimony, of tartar emetic, of calomel, or rhubarb, they want a vehicle in which to give it; they do not want to give it too strong, and therefore those powders have been commonly known throughout the trade as compound horse powders. They have been sent all over the country for years and years, long before I can remember anything; they were made up with articles such as aniseed; the aniseed was the flavouring; they were made up with the most simple article that could be found, either lignum vitæ or rape cake; after the oil is extracted from the rape seed you get as simple a thing as can be; it is birds' food; the lignum vitæ, or the rape cake, was made the basis of the addition that was wanted. Now that was one thing which the wholesale trade always talked of as being rather a foolish and bad custom, and they desired to get rid of it, but it has been kept up to the present time. That is really the plan of supplying what are commonly called compound horse powders. When the improvement in the drug grinding commenced it went on, and we found the increase so considerable that, from the year when we began, we have got up to between 500 and 600 per cent. increase. With regard to the discouragement of these horse powders, we never liked the names of them; the druggists discourage them, but we do not know how to stop them. I find they have decreased, while we have a great increase in the preparation of medicines upon the improved system, amounting to 500 or 600 per cent. increase.

2870. Do you think that the materials employed in horse powders are used exclusively as medicines for cattle, or are they ever used as medicines for human beings?—We cannot tell that; they are made according to direction and sold.

2871. What is your opinion?—I could not form an opinion. I have no access to the shops where they are sold.

2872. You are not prepared to state positively that they are not used as medicines for human beings?—No.

2873. All your evidence upon this point is, that the preparation of compound horse powders of this kind is much less than it used to be?—As far as our experience goes. I do not know that it may be the same as others.

2874. You still continue to prepare them?—Yes; they are still required to be made. I should like to see them cease; if this Committee said that they should, they would cease tomorrow.

2875. For what class of retailers do you prepare these horse powders?—We do not prepare for retailers; they are prepared for the wholesale druggists, who circulate them throughout the country. I must tell the Committee the difficulty I have felt. This branch of business has been mainly under my supervision; the

the mechanical part of my business. The Apothecaries' Company laid before the Committee evidence to show that they had the power of inspection, and the College of Physicians have the power by law to inspect, but they have not exercised that power; they have foregone the inspection; in all these questions it has thrown a great onus upon those who have had to conduct this business, because checks might have been given and improvements might have been suggested which would have more force coming from a public body; but they say in their account of their charter and their proceedings, that they found the conduct of the inspection so very disagreeable, and attended with so many unpleasant incidents, that they gave it up.

2876. The Committee are to understand that you individually would wish them to exercise the inspection more vigorously?—I have very often thought so. I shall come to evidence by-and-by as to what we have to do with regard to drugs. I cannot explain that to the Committee without going into a more important part of the subject; the character of drugs; the different varieties of quality, and what the analysers who have been before the Committee have reported to be the real state of the case. I must explain to the Committee the character of drugs, and then when I do that I shall show you the very great necessity, in my opinion, of some inspection.

2877. Mr. *Wise.*] Do you think the venders of articles of materia should be liable to inspection?—Yes.

2878. Does not the price of scammony vary from 7*s.* to 48*s.*?—To 45*s.*

2879. Of course the administration of a small dose of a drug of an inferior quality has a very different effect to a small dose of the best quality; if we could have a system of supervision you would approve of it?—Yes.

2880. Would you see any objection to every chemist and druggist having a licence, and being subject to supervision?—That is a matter for legislation. I think there ought to be some searching check.

2881. Do you think there should be some check upon the importation of adulterated drugs?—I think after the drugs are imported such a separation takes place that it would frustrate all the efforts at the beginning.

2882. Mr. *Moffatt.*] Can you inform the Committee as to what measure you would impose upon the importation of drugs, in order that they should reach the public in a pure state?—I would establish an Analytical Board, with power.

2883. You think that would not be objected to by the druggists and chemists throughout the United Kingdom?—No; I see the efforts of wholesale druggists in preparing the best articles. I have had conferences with them, both as to the mode of preparation and the articles themselves; I know, in contradistinction to the evidence which has been given before this Committee, that medicines are to be bought of the most perfect kind; I am not talking of opinion, but of fact.

2884. Mr. *Kinnaird.*] Does not the very fact that medicines can be bought of the most perfect kind, imply that there is a vast amount of inferior kinds sold?—Of course.

2885. You can by a great effort buy a perfect article?—No great effort, the simplest effort.

2886. Mr. *Moffatt.*] I presume you would have government inspectors as well as an analytical board?—Yes.

2887. With the power of examining the drugs of the various venders throughout the country, taking samples of those that they believe to be impure?—Yes.

2888. What consequence should follow upon the discovery of impure drugs?—That is a matter for the Legislature.

2889. Mr. *Gregson.*] Do you think that fine and imprisonment should be employed?—I have not considered that point.

2890. Mr. *Moffatt.*] Your belief is, that the druggists throughout the kingdom would acquiesce in a general inspection of the drugs which they sell?—Yes.

2891. Mr. *Gregson.*] What you say would apply to a thorough examination of all drugs, whether powders or any other preparation?—Yes.

2892. You would have this analytical board in London?—Yes.

2893. How would you deal with the provinces?—I would have branches.

2894. Mr. *Wise.*] Will you state to the Committee the different characters of

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rhubarb?—There are several kinds of rhubarb sold; there is some comes from Russia; it is grown in Tartary, and comes through Russia; that is reckoned the finest quality. Then comes the China rhubarb, which used to be called East India; and then comes the English rhubarb. The Tartary rhubarb is almost universally sound and good; that coming from China is in great variety. You may have an inspector, or anybody else, to see a chest of fine looking rhubarb, but when it comes into the hands of the dealer it is found to be of very different quality. You see by Mr. Warrington's evidence before you, he says that the Apothecaries' Company take very great precaution; with regard to rhubarb, they buy nothing which has not been broken to ascertain its soundness. When I am in my drying-room I see rhubarb as fine as Mr. Warrington sees broken for the purpose of ascertaining that it is all sound. I see other rhubarb; I see the separation that practically takes place. I see that fine kind which Mr. Warrington describes as being sold to the rich, and I see the second or third quality, down to what is called English rhubarb, as low as, Mr. Warrington says, about 4 *d.* a lb. The Committee will observe the very great difference of the quality of the article of rhubarb, sound, second degree of soundness, and perhaps a third degree of soundness.

2895. Mr. *Peacocke.*] What you mean to say is, that, generally speaking, there are different classes of drugs, and that much better articles are provided for the rich than are provided for the poor?—Yes.

2896. Mr. *Gregson.*] You speak of different qualities of rhubarb?—Yes.

2897. You do not speak of any adulteration in any case?—No; there is no resort to adulteration at all.

2898. Mr. *Wise.*] Because English rhubarb is so cheap?—Yes.

2899. *Chairman.*] You mean to state that there are different qualities of rhubarb, some good, and some bad?—Yes, and they are sold accordingly; if a member of the Committee were to go to the best house, and ask for the best powdered article, they would get the finest article, and they would pronounce it superior perhaps to the article sold at Apothecaries' Hall.

2900. Mr. *Gregson.*] Does the statement you have made with regard to rhubarb apply to other drugs?—Yes; there are one or two more important than that; there is bark.

2901. Is bark divided into the same different qualities as rhubarb?—Not exactly; the deterioration of rhubarb is mainly according to the soundness; bark has a natural variation.

Mercurii, 9° die Aprilis, 1856.

MEMBERS PRESENT.

Mr. Scholefield.	Mr. Swift.
Mr. Wise.	Viscount Goderich.
Lord Claud Hamilton.	Mr. Moffatt.
Mr. Gregson.	Mr. Kinnaird.
Mr. Peacocke.	

WILLIAM SCHOLEFIELD, Esq., IN THE CHAIR.

Mr. *James Drew,* called in; and Examined.

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2902. *Chairman.*] YOU are a member of a firm of Wholesale Druggists in Bush Lane, in the City?—Yes; Drew, Heyward and Barron.

2903. You have heard some of the evidence which has been given to this Committee in reference to what are considered the frauds practised by some druggists?—I have.

2904. Does your experience confirm the evidence which has been given upon that head?—It does not; it is totally at variance with it.

2905. With

2905. With reference to the points to which you yourself speak, are you speaking for the trade generally, or are you speaking for yourself and for such other members of the trade as you are acting with upon the present occasion?—I can only speak for myself positively, of course; but I would rather speak as to the facts connected with certain articles than I would to the affairs of any individual.

2906. You are about, I understand, to state, that in your own establishment, at all events, and probably in the establishments of certain persons known to you, the practices which have been alluded to by previous witnesses are not in use?—I can safely lay my hand on my breast and say that no adulteration ever took place in my house, and I firmly believe there are men in the trade as honest as I believe myself to be.

2907. On the other hand, you cannot, I suppose, go so far as to say that those practices are not in use amongst certain members of the trade; they may be wholly without your cognisance?—I cannot say that, but I can show the absence of motive; the adulterations that have been alleged to have taken place are quite incompatible, and are almost impossible, inasmuch as in the absence of motive two incompatible things having been said to be mixed together it renders them impossible; and not only so, if the general adulterations that are said to have taken place, had taken place, the articles would be so altered in their character that they would be perfectly unsaleable.

2908. Will you be good enough to state such leading articles as, in your opinion, confirm the impression you have now endeavoured to convey to the Committee?—I have taken an abstract of a few, which I will mention as briefly as possible. Annatto is said to be adulterated with various substances; amongst the rest, with turmeric. If the Committee like I will put before them a specimen of turmeric and annatto, showing the impossibility of their being mixed together. Here is a sample of annatto as imported (*producing the same*).

2909. That is pure annatto, I presume?—That is pure annatto as imported. Here is a sample of turmeric (*producing the same*).

2910. In what way do you mean the Committee to understand that the admixture is impossible; do you mean to say it is impossible in point of colour?—You see the two articles there; it is quite impossible to mix the one with the other; the one is a root and the other is a sort of butter.

2911. Do you mean to say it is impossible to grind them?—Yes. In order to be prepared for that, I have a sample of turmeric in powder; the two are quite incompatible articles.

2912. Have you mixed those two articles to see the effect?—No, I should never dream of such a thing.

2913. In order that you may arrive at a positive conclusion, must you not know the effect produced by mixing them or by attempting to mix them?—I do not see that.

2914. Lord *C. Hamilton.*] Is it essential to the purity of annatto that it should present so bright a colour?—Yes.

2915. Mr. *Moffatt.*] The annatto has a soapy appearance?—Yes; that is an article that comes from the Brazils.

2916. *Chairman.*] Does it come in that soapy state?—Yes.

2917. Mr. *Wise.*] What is annatto produced from?—From the seed of the annatto plant.

2918. What is the price of it?—That cost 7 *d.* a pound.

2919. It is not itself a dear article?—No.

2920. Mr. *Moffatt.*] Is it not susceptible of being dried and pulverised?—It never has been done.

2921. Would it be difficult to abstract the moisture?—Yes; very difficult indeed.

2922. Assuming that could be done, annatto and turmeric could be mixed?—Yes.

2923. What is the cost of turmeric?—The price of turmeric is from 4 *d.* to 5 *d.* a pound; the grinding of the turmeric would bring it up to the same price as annatto.

2924. There is only a difference of 2 *d.*, and the grinding of the turmeric would realise the price of annatto?—Quite so.

2925. *Chairman.*] Have you any doubt as to the adulteration of annatto?—Yes.

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2926. You do not think any adulteration of annatto exists?—I do not.

2927. Mr. *Wise.*] Did you ever hear that it was mixed with red lead?—No.

2928. Is that the natural colour?—Yes, precisely as imported.

2929. You have no reason to believe that certain articles are mixed with red lead, and sold for annatto?—No.

2930. You think there is no temptation to do it?—No; the same observation runs throughout the whole of the articles said to be adulterated.

2931. Mr. *Moffatt.*] Will you be good enough to state some other articles in illustration of your position?—East India arrowroot is said to be adulterated with sago and tapioca; East India arrowroot is worth about 2 *d.* a lb.; sago is worth about the same price; tapioca is worth about 7 *d.* to 8 *d.* I have taken these samples to show to the Committee that the mixing of sago and tapioca with arrowroot is just as impossible as mixing annatto with turmeric. When we read these statements we are only surprised that such evidence could be given before a highly respectable Committee of the House of Commons, because it is so easily contradicted.

2932. Would it not be possible to pulverise sago and tapioca also?—They might be pulverised, but they are never sold in that state.

2933. Would not the effect of pulverising the sago be to make it of a perfectly brown colour?—I think it would.

2934. *Chairman.*] In the first place, these things are never sold in a pulverized condition, and therefore adulteration is not practised, and tapioca is dearer than sago?—They may be sold in powder, but are not by wholesale druggists.

2935. Do you mean to say that it is the custom to sell them retail in powder at all?—I do not know that it is; there is an article called patent sago.

2936. Lord *C. Hamilton.*] It was not alleged, was it, that tapioca and sago were main ingredients with which arrowroot was adulterated?—Yes, it was.

2937. *Chairman.*] Whose evidence are you alluding to?—I think it was Dr. Hassall's.

2938. Take the next article?—Cinnamon is said to be adulterated with cassia; it is but a short time since that cassia was the dearer of the two.

2939. Is there any material difference now?—There is no very material difference between the cost of low priced cinnamon and good cassia.

2940. Mr. *Moffatt.*] Would it be possible to adulterate cinnamon with cassia?—Only in the shape of powder; as far as the statistics of these things go, if they are interesting to the Committee, I can mention a curious circumstance which took place a few months ago. Cassia was exceedingly scarce, and cinnamon of an inferior quality was sold as cassia

2941. Is there much cinnamon sold in a pulverised state?—Not a great deal.

2942. Reviewing the course of years, I believe cinnamon does rate ordinarily at a higher price than cassia?—It has been low for some years since the trade has been opened with Ceylon.

2943. Cinnamon was cheaper than the cassia with which it was stated to be adulterated?—Yes.

2944. What is the next article which you would allude to?—It is said that cayenne is adulterated with rice; that is open to the same objection. I have a specimen of cayenne pepper which I have sold for 25 years. I have been 30 years a principal in the trade, and 10 years an apprentice and assistant.

2945. But cayenne is susceptible of adulteration with substances which will mix therewith without being easily detected, and which will very much reduce the cost?—Clearly.

2946. Are you aware whether the practice of adulterating cayenne is customary amongst respectable wholesale druggists?—I do not think it is with respectable wholesale druggists; it has been acknowledged by some pickle houses that they have adulterated it.

2947. You would learn from your opponents if they did adulterate, from their being able to sell at a lower price?—It is not an unfair way of judging of our opponents; when we are undersold we fancy that they have some means of getting money which we have not.

2948. Have

2948. Have you found, with regard to cayenne pepper, that such a practice exists?—We have been very much undersold by pickle houses, but not by druggists.

2949. *Chairman.*] With regard to arrowroot, I find the statement made as to the material used for adulteration is, that in most instances it is adulterated with potato flour; it is only one case in which tapioca is alleged to have been used?—There is little difference of value between low arrowroot and good potato flour.

2950. What is the difference between the price of good arrowroot and potato flour?—A good sound arrowroot might be bought for 4½*d.*, and potato starch is worth 3*d.* at this moment.

2951. Are you speaking of the highest price of arrowroot?—The lowest price of arrowroot.

2952. The probability is the lowest quality would be used to adulterate the quality sold as the highest?—The highest is 16½*d.* There is a wide difference between the two articles. It would be seen the moment that boiling water was put to the adulterated article; it would not make the same jelly that fine Bermuda arrowroot does.

2953. Mr. *Moffatt.*] The fraud would carry its own detection?—Yes; any cook would see the difference in a moment. Those accustomed to use it would see the difference in a moment without any trouble.

2954. Lord *C. Hamilton.*] If the practice of adulteration was general the detection would not be so simple would it?—Persons in the habit of buying their arrowroot at a respectable shop would know.

2955. You have shown the great difference of prices that exists; possibly your attention not having been particularly addressed to the subject, this practice may be more common than you have led the Committee to believe just now?—I have shown the impossibility of lowering some things with others.

2956. Will you state the exact portion of the evidence you are combating. Where is the allegation with respect to cassia and cinnamon?—I make these observations from the evidence that has appeared, without reference to any persons. I would not wish to make any personal remarks if I can avoid it.

2957. Mr. *Moffatt.*] You found these statements on the evidence given before this Committee, which has been officially published?—Yes.

2958. Lord *C. Hamilton.*] Do you mean that cassia was stated to be the only material used; might not other inferior articles, having cassia mixed with them to convey the quality that was wanting in the other materials, be used so that the whole of the foreign material that was used for the purpose of adulteration would contain a small portion of cassia only?—I did not read it so.

2959. Do you mean that Dr. Hassall said that cinnamon was adulterated, and that the only material used was cassia?—The note I took is, "Cinnamon is adulterated with cassia."

2960. You allege that cassia is the dearest of the two, or there is so little difference in the price that that cannot be the case; supposing, on examination, it turned out that cassia was only one of the ingredients, then your theory would fall to the ground, would it not?—I did not expect to be asked these questions. I merely took a general memorandum.

2961. *Chairman.*] With regard to arrowroot; if you assume that the mixture with arrowroot is sago, I can well understand that there is no inducement to mix the two together; but referring to that portion of the evidence which states that potato flour is used with arrowroot, is there not a very strong temptation to use potato flour in the best kind of arrowroot, because potato flour is worth only 3*d.* a pound?—The temptation would be more to use low arrowroot to adulterate the higher description than potato starch, which could be detected with a microscope.

2962. Mr. *Moffatt.*] It appears from the evidence of Dr. Hassall, at page 21, it is distinctly stated that cinnamon is adulterated with cassia; I presume it is upon that you have given your evidence?—Precisely.

2963. Dr. Hassall goes on to state that cinnamon is adulterated with cassia, and most of the articles that are mentioned under the head of spices; are you aware that spices are adulterated?—I do not believe any of them are.

2964. Would it be possible to adulterate cloves, for example?—Cloves are very seldom used in powder.

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2965. Is mace?—Mace is never used in powder; I believe that cooks use mace only in the blade.

2966. *Chairman.*] Take the next article, if you please?—Ipecacuanha is said to be adulterated with chalk; it is quite an impossible case; no one would dream of using such a material. It is exceedingly difficult to deal with this evidence, inasmuch as the gentlemen who give the evidence do not state whether they are treating of the article as imported, or whether they are treating of it in a prepared state. The drugs, chemicals, and galenicals, are all mixed up together, so that it is an exceedingly difficult thing to bring it clearly before the Committee. If the Committee were at my warehouse I could put things before them which would show that the way in which the evidence has been taken makes it exceedingly difficult to deal with it. Jalap is said to be adulterated with powdered wood; that would be very easily detected; it would be shown by the microscope; even a ray of the sun coming upon it wuold show it.

2967. Do you think that persons when purchasing these articles use a microscope?—There is a very great spirit of inquiry about; since the establishment of the Pharmaceutical Society things are very much improved in that respect. Individually, I think the microscope a very fallacious mode of judging, because a man may honestly send out an article that has undergone decomposition, and not know it; the very article of powdered jalap cannot be microscopically properly examined, for this reason. I have seen powdered jalap one moving mass of animal matter, having been quite altered in its structure; no doubt it had gone through the stomachs of those animals. There is much importance in the keeping of the articles, and this has not been brought before the notice of this Committee. I have carefully read the evidence. There is really as much importance in properly keeping and looking to those articles so liable to decomposition as in having them genuine at first. I believe a great deal of the error which has been fallen into has arisen from that circumstance, that persons from inadvertence, and not understanding the nature of the articles, have not been sufficiently careful.

2968. From the observation you have just made, I infer that you think there was considerable room for improvement; you intimated that the Pharmaceutical Society has been of considerable service?—I do not know that there was considerable room for improvement with those who did their trades honestly.

2969. This inquiry would never have been originated if we had been dealing only with honest traders; it is because there is a large class of dishonest traders that it has arisen, therefore it is with them we have to deal. I presume there were dishonest traders previous to the existence of the Pharmaceutical Society; has the existence of that society tended in any degree to check the adulteration of drugs?—I do not think it has; I think it has promoted a spirit of inquiry.

2970. In what respect do you speak of the Pharmaceutical Society as having been beneficial?—As having been the cause of inquiry being made; you have had it stated to you that the Pharmaceutical Society instituted an inquiry into the mode of grinding drugs; the inquiry they instituted turned out very satisfactorily. You have also been told that nobody uses in the present day what was called the four per cent. system. I have never used it; from the earliest period of my career all drugs have been ground with their natural loss. I have a table to show that, extracted from my own books.

2971. Viscount *Goderich.*] Do you believe that that system did exist at any time in the trade?—Before I was in the business.

2972. You do not believe it has existed in the trade since you have been in the business?—I do not think it has existed in the trade since I have been engaged in it.

2973. Do you think it exists at all now; I do not refer to your own house, but to the London trade generally?—I do not.

2974. Lord *C. Hamilton.*] Within what time has the great improvement you have just alluded to been exhibited; you said a great improvement had ensued from the establishment of the Pharmaceutical Society?—I said that the Pharmaceutical Society had given rise to a spirit of inquiry.

2975. Mr. *Wise.*] The Pharmaceutical Society was established notoriously to elevate the character of the chemists, was not it?—No.

2976. Have they not taken a great deal of trouble to promote the purity of drugs by a new system of grinding?—No; I do not know that they have interfered.

2977. *Chairman.*] You do not think that the establishment of the Pharmaceutical Society has tended in any degree to prevent the adulteration of drugs?—I do not think it has.

2978. It appears in evidence that such has been the effect?—It is contrary to the evidence I am about to give you upon another point, which I think will render the subject very clear to the Committee.

2979. Mr. *Wise.*] What is the price per pound of the best jalap from Mexico?—Two shillings and fivepence to 2 *s.* 6 *d.* per pound.

2980. Might not that, after it has been ground, be mixed with flour to an injurious extent. Have you ever heard that it was mixed with flour?—No.

2981. Am I correct in assuming, with respect to the property ascribed to jalap, that only about 10 per cent. of the jalap has any effect upon the constitution?—I should not like to take a dose of powdered jalap from which 10 per cent. of any material composing it had been taken, the component parts are so various. Here is a sample of opium; if you take from it all the morphia you will still leave other salts, which are not only very powerful but very valuable; and it would be the same if you were to take the jalapine from jalap.

2982. If jalap be adulterated with flour to any extent, of course that 10 per cent. of active principle would not exist, and a medical man would find that his prescription had a different effect from what he expected, would he not?—No doubt; if he ordered powdered jalap and the jalapine had been removed, it is impossible to say what would remain. The gentlemen who profess to have examined these vegetable matters do not seem to me, as far as I can judge of their evidence, to have known anything about them.

2983. If a medical practitioner expressed great disappointment at the effect that jalap had produced upon his patients, to what would you ascribe that?—The first thing I should do would be to examine it, to see if it had become decomposed.

2984. Do you mean by decomposed, a root that was unfit for grinding having been ground?—No; that the powder itself had undergone decomposition, which it will from damp, and various other causes; even exposure to light will alter its structure.

2985. What is generally done with this decomposed powder?—Nothing ought to be done with it; it ought to be thrown away.

2986. What is done with it?—I do not know; our sale is very quick for these things; we never have them.

2987. Viscount *Goderich.*] Are you in the practice of mixing lignum vitæ with any of your powders?—No.

2988. Do not you think that that practice, if it did exist, would be likely to affect the powders and injuriously to weaken their effect?—No question it would.

2989. You think it was an improper practice?—Very improper.

2990. Do you believe it ever existed in the trade?—I have heard of it by tradition.

2991. Why do you think that that practice was resorted to at any time?—Only for the purpose of making the article cheaper and more profitable.

2992. It was consequently a fraud in your opinion?—Clearly so.

2993. *Chairman.*] What is the next article upon which you wish to remark?—It is stated that curry powder is adulterated with rice; rice is commonly an ingredient in curry powder; most houses have different formulas, therefore it hardly applies. Ginger is said to be adulterated with turmeric; low ginger and tumeric are so near of a price that there is no motive for it.

2994. Mr. *Moffatt.*] What is the difference in price?—African ginger is worth from 2½ *d.* to 3*d.* per pound; and the lowest turmeric (it is not fair to take the present price, because it is scarce and dear now) is worth from 4*d.* to 5*d.*

2995. *Chairman.*] What is the highest price of ginger?—The highest price of ginger is from 1*s.* 9*d.* to 1*s.* 10*d.*

2996. Is it not palpable, that although there is no inducement to adulterate the lowest qualities of ginger, there may be a very strong inducement to adulterate the highest quality with a material very much cheaper?—Then we come back

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back to the former proposition, that a person wishing to adulterate a high quality of ginger would adulterate it with a low ginger, low ginger being the cheaper of the two.

2997. That is your opinion?—It is self-evident that a person would take the article itself rather than one that was higher in price, and not at all analogous.

2998. Cannot you imagine any reason for employing turmeric, to improve the colour, for instance?—I do not think it would improve the colour.

2999. Mr. *Moffatt.*] You think it would be rather more advantageous to adulterate the finer descriptions of ginger with the lowest descriptions of ginger, than turmeric?—Clearly.

3000. Lord *C. Hamilton.*] Would the powder of the lower kinds of ginger mix as well with the finer powder of the superior quality as turmeric?—Better than anything else.

3001. Better in point of flavour?—Yes. I do not think that turmeric would mix with the best ginger; it would make it of such a colour that it would be objected to.

3002. *Chairman.*] You have stated only one of the ingredients. There are many other articles mentioned in evidence besides turmeric, for instance, potato flour and cayenne pepper, and mustard husks?—I never heard of such things being mixed with ginger. It is in evidence before the Committee that some person ground four cwt. of Turkey rhubarb; I heard that evidence given myself; I mentioned it on Change, and the people there treated it with the utmost derision; they said no house in the world ever ground four cwt. of Turkey rhubarb.

3003. Mr. *Moffatt.*] In what period of time?—At once; the person who gave that evidence said that he had mixed two cwt. of English rhubarb with it. The largest houses in our trade do not grind above one cwt. That is a large quantity to grind to keep good.

3004. It never has been known, in your experience as an extensive wholesale druggist, that four cwt. of Turkey rhubarb has been ground in any one day?—No; a very large quantity being one cwt.

3005. Mr. *Wise.*] Do you mean to state that British rhubarb is not used very largely in this country?—Not to the extent that has been stated in evidence. It is in evidence before this Committee that there are 20 tons grown at Banbury. The grower at Banbury stated that he never grew more than six or seven tons. It is unfairly brought before the Committee, because the person who said that 20 tons were grown, should also have informed the Committee what portion of it was exported; it leaves the inference that it was all consumed in England. The person who stated that should have stated also what portion was exported to America, and what portion was used by the Irish poor-law unions.

3006. Mr. *Moffatt.*] Do you think he had the means of acquiring that information?—Not exactly perhaps; but by inquiry he would have found that large quantities were exported.

3007. Mr. *Wise.*] What is the price of the best Russia rhubarb?—Twelve shillings a pound.

3008. What is the price of English rhubarb?—Cuttings are about 48 *s.* a cwt.

3009. Lord *C. Hamilton.*] You say that you think it was hardly fair that the person who gave this evidence did not further state what became of all the British rhubarb; surely he was not able to follow that out?—If he were acquainted with the fact that 20 tons of rhubarb were grown, he should be acquainted with the fact of its being exported.

3010. How should he know that any went to the Irish poor-law unions?—How should I know it myself?

3011. How do you know that that is the practice?—I supply many large houses in Dublin with large quantities of powdered rhubarb.

3012. How do you know that it is destined for the Irish poor-law unions?—From the statistics that have been published. It is sold to them at 8 *d.* a pound.

3013. What do you sell it as. Do you sell it openly as British rhubarb, knowing its destination?—Yes; its destination was from me to the wholesale houses

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in Dublin. I know only what was published, that it was used in the poor-law unions.

3014. Mr. *Wise.*] It is notoriously less active in its effect than foreign rhubarb, is it not?—It would require a very large quantity to produce the same effect.

3015. Are you aware that the practice of using English rhubarb has been authorised by Dr. Pereira?—Dr. Pereira was a very clever man, but he was not very well-informed upon these subjects.

3016. Viscount *Goderich.*] Do you consider that it is a fair proceeding to sell this rhubarb to the poor-law unions to be used by the paupers?—If it is sold for what it is; if it is sold for good East India rhubarb, I should say it is a very great fraud.

3017. You do not suppose that the paupers would get much good from that rhubarb?—They would not get much good from that rhubarb.

3018. Lord *C. Hamilton.*] Supposing drugs are supplied by contract to those unions, do you think it is fair and right that they should buy this article?—I do not think it is.

3019. You appear rather to blame the witness for saying that a great deal of this article was brought into the trade?—Yes, because it left an unfair inference; it left the inference that it was consumed in the trade.

3020. It is consumed amongst the Irish at any rate?—That is the great consumption in this country, but a vast quantity is exported.

3021. Mr. *Moffatt.*] What quantity is exported?—I can only guess; it depends upon the orders that come. I have perhaps exported four or five cwt. in the course of the year.

3022. Viscount *Goderich.*] Do you think the great consumption of English rhubarb is by the paupers in Ireland?—I think the great consumption is the export.

3023. Mr. *Wise.*] Is any of it exported to Spain?—No.

3024. *Chairman.*] Do you know that English rhubarb is used in some of the London hospitals?—Yes.

3025. Do you know also that some eminent men are of opinion that it is beneficial?—Yes. I have heard so.

3026. Mr. *Moffatt.*] With regard to 20 tons of rhubarb being grown by one grower near Banbury, are you aware that he stated positively to the Committee that his growth was seven tons?—I heard him say so.

3027. Lord *C. Hamilton.*] Are you prepared to say that there are no other growers that grow two or three tons each?—I do not know of any.

3028. You cannot say that it is not the fact?—No.

3029. Therefore, any inference to be deducted from the statement that 20 tons were brought into the trade, may be true for aught you know?—The evidence was given as to what was grown at Banbury, and that person said he only grew seven tons.

3030. There may be other growers growing two or three tons to make up the aggregate of 20 tons?—I do not think there would be any other grower without my being aware of it.

3031. *Chairman.*] What is the next article you wish to remark upon?—Those are all I have taken out. I thought they would be sufficient to answer the purpose I had in view.

3032. Will you state to the Committee your opinion as to the existence of adulteration of drugs?—I do not believe it exists in London.

3033. You are speaking of wholesale druggists?—Yes. It is quite impossible that I can say what passes in other houses, but I do not believe it myself. I believe it is a very respectable trade, generally speaking; there are black sheep in all trades.

3034. Is it not a trade that affords considerable facilities for adulteration?—Very considerable.

3035. Mr. *Moffatt.*] Do you find, between your prices and the prices of your competitors in the wholesale drug trade, such a difference as leads you to believe that your competitors sell articles that are adulterated?—Yes, we do sometimes.

3036. With respect to houses of some standing?—Yes.

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3037. To that extent you believe that adulteration does exist amongst respectable wholesale druggists?—As I said before, there may be ways of getting money that I am not acquainted with.

3038. But taking the trade as a whole, your belief is that adulteration does not prevail amongst wholesale druggists?—I do not believe it does.

3039. Mr. *Wise.*] Do you believe it would be any advantage if there were a check or supervision with respect to the importation of drugs?—I do not think it would. The supervision system has been tried in America, but it has not been found to answer. The drugs which have been refused at New York have found entrance at Boston or Philadelphia; and those rejected at Boston and Philadelphia have gone into New York.

3040. Do you see any objection to chemists and druggists being licensed, and being subject in any way to supervision?—I think the supervision of the College of Physicians would be a very good thing; they have the power by law now, and I think if they exercised it it would be a very good thing.

3041. Why do not they exercise that power?—I do not know.

3042. Are there not frequent complaints from medical men of the character of the medicines that are used?—I never heard them.

3043. Not in the poorer districts?—No.

3044. Lord *C. Hamilton.*] Is it not the case that a great number of the articles that come to you, as a wholesale druggist, from abroad, come in a very impure state?—They do.

3045. It hence arises when you import an article, you know that you will only have an adulterated and impure article?—It is not our business to import, but we are driven to import goods ourselves because we cannot obtain supplies from the merchants.

3046. So that commercially an article is known to be an article not thoroughly pure?—Yes; it is in proportion to a man's conscience, and according to what he deals in. I believe there are others besides myself who are most anxious to get the best supplies that can be obtained.

3047. Is it not the case, from your knowledge, that drugs come frequently in so impure a state that you are obliged to purify them before you can exhibit them to the public as pure articles?—I endeavour to buy pure articles so as not to require it. The two articles that have been so much spoken of before this Committee, and the only two of much consequence in the whole inquiry, have been opium and scammony. This sample of opium was taken from the bulk of a chest from which we are selling (*producing the same*); it is perfectly pure; there has been no picking.

3048. Does any opium come from Turkey?—Yes; direct from Smyrna and Constantinople, but not from Aleppo, as the Committee have been told.

3049. Mr. *Wise.*] The opium you have produced, you say, is as pure as can be?—Yes.

3050. Is it not obliged to be mixed with some substance?—No; unless by design. You are aware that these things are collected in such a way that there must naturally be some mechanical impurity adhering to them; but there is no design. That is perfectly pure opium.

3051. What is the difference between this opium and Egyptian opium?—They are totally different articles. Egyptian opium is, perhaps, as good a mechanical preparation as Turkey opium when it comes genuine; but latterly Egyptian opium has been bad, and we have not been able to sell it.

3052. Mr. *Moffatt.*] What is the character of the East India opium?—No doubt the East India opium is very pure, but it has never been imported in my day.

3053. It is not found to be rendered so cheap in this country as that from Constantinople?—They have a better market for it in China.

3054. *Chairman.*] It has been stated before this Committee that in the analysis of 23 samples of opium no less than 19 were adulterated, four only being genuine?—The person making that statement must have been very unfortunate in his experience.

3055. You do not confirm that as being at all general?—Certainly not.

3056. Do you think poppy capsules and wheat flour are used to adulterate opium?—Poppy capsules are used in Turkey, but I do not think wheat flour is used.

3057. Viscount *Goderich.*] You said just now that the system of inspection or importation in America had failed; what ground had you for making that assertion?—I know that certain things that have been rejected at one port, have found admission at another, owing to there being different opinions amongst the inspectors.

3058. How do you know that?—I know it from the house of Maclean, Maris and Company, large American merchants in New York and in London.

3059. They have stated to you that goods rejected at New York were taken at other towns?—Yes.

3060. Does that system of inspection extend to all the states of the Union?—Yes.

3061. Mr. *Moffatt.*] Are you sure that that system extends to all the states of the Union?—I informed myself upon the subject by asking the best source that I could; I have no doubt about it. In order that my own evidence should be clear and distinct, I asked Mr. Maris, of the house of Maclean, Maris and Company, and he confirmed my previous notion.

3062. Viscount *Goderich.*] Your evidence would only prove this, I suppose, that the Customhouse officers in other towns were less upon their guard than those at New York?—They are medical inspectors; the reception at one port of what has been rejected at another arises from a difference of opinion.

3063. Mr. *Moffatt.*] From a difference of opinion in the medical inspectors?—Yes.

3064. If there were the same system in the United Kingdom, would not the same difference of opinion be likely to arise at the different ports of the United Kingdom?—Yes; I do not see who you can get to be inspectors; you must either get a broken down tradesman or a philosopher, who is not acquainted with the nature of the article.

3065. You have produced a sample of pure opium; assuming opium to be imported with five per cent. of impurity, what course would the inspector have to follow in case a law was passed that none but pure drugs should be imported?—He would necessarily reject it.

3066. Are not the great majority of the drugs more or less mixed with impurities?—Not the great majority; a great many are; those two leading articles, opium and scammony, to which the attention of the Committee has been more particularly directed, are the two most open to that sort of thing.

3067. What proportion of the total importation of opium is perfectly pure?—It is impossible to give more than a guess, because it is all entered the same.

3068. Would you, from your experience, think that one-fourth of the opium imported was entirely free from impurity?—I should say half.

3069. And the other half would be more or less mixed with foreign ingredients?—Yes.

3070. Mr. *Kinnaird.*] I think you stated that the sample you produced was perfectly pure, except the dirt which is necessarily connected with the collection of the opium?—There is the coat; there is no dirt.

3071. Do you suppose an inspector would have a difficulty in distinguishing between the natural impurity necessary in collection and an article adulterated for the purpose of fraud?—I think there would be the greatest possible difficulty in finding a person who could so distinguish; there are very few good judges of opium in London.

3072. Do you suppose that a man accustomed to it, and whose duty it would be to examine specimens of opium, would have any difficulty in distinguishing between natural impurity and an article adulterated for the purpose of deception?—I think he would have the greatest possible difficulty unless he had been accustomed to the article from his earliest youth.

3073. Do not you suppose that the Government would appoint a qualified person?—Where will they get him? It must be a man accustomed to the trade.

3074. *Chairman.*] Has the American Government any difficulty in finding inspectors?—They appoint inspectors, and the articles that some reject others pass.

3075. Is not it the general result, however exceptional at times, that the importation of adulterated drugs has materially declined in America, and that the drug market there is very much purified; do you know that fact or not?—I have only one means of judging of that, namely, by what they send us from

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America; we look very narrowly indeed at what comes from America; I myself would not buy any article coming into the market from America.

3076. Lord *C. Hamilton.*] Does any inspection take place in America on exported drugs?—I do not think it does.

3077. A drug may have been imported very pure, and then manufactured into an article for exportation?—Very likely.

3078. Mr. *Moffatt.*] Your evidence goes to duty-paid drugs?—Yes.

3079. Does not it follow, that any drugs coming in bond from America would probably be goods which had been rejected, and not allowed to go into home consumption in America?—Yes.

3080. So far as that went, it would show the advantage of inspection?—Yes; but it is more likely to depend upon the state of the market than any rejection of that sort.

3081. What class of men inspect the drugs in America?—I do not know.

3082. Is there not an inspector in each of the five ports along the American seaboard?—Yes.

3083. Lord *C. Hamilton.*] The Americans are not particularly anxious to have restrictions placed upon their commerce; surely they would not have submitted to this inspection if they had not found a benefit to arise from it?—I cannot speak to that.

3084. Supposing persons wish to send in an impure article; its having to go through the ordeal of inspection, even though the inspectors from time to time differ, must deter the general practice of adulteration?—The only means of information I have are the published accounts of what goes into America.

3085. You stated, as an instance of the inefficiency of the system, that a person got into some other port articles which had been rejected at New York?—Yes.

3086. Is not the fact of his having failed in his original intention, evidence of a check?—No; he got it into another port.

3087. He had all the expense of taking it to another port?—That shows the uncertainty of the system.

3088. Mr. *Wise.*] Did not that arise from the want of proper supervision and good organisation?—I cannot say.

3089. If there had been a central council of health, for instance, who had arranged the details, and given proper instructions to their professors of pharmacy, would not the inspectors have come to a safer conclusion?—That is impossible for me to say. I believe the Board themselves would be obliged to call for the assistance of a wholesale druggist, who was acquainted with the articles.

3090. Are not professors of pharmacy thoroughly conversant with all the details?—I do not think they know anything about the drug trade; they have shown in their evidence that they do not understand it.

3091. *Chairman.*] Do you mean to convey to the Committee the impression that what are called pharmaceutical chemists are not persons competent to give an opinion as to the purity or impurity of drugs?—A pharmaceutical chemist, in trade as such, may be, but not those who are only professors.

3092. You think it is absolutely essential that a man should buy and sell, to be acquainted with the quality of drugs?—He should be acquainted from early youth with what he deals in. I will give you an instance: if I fail in my preparations I cannot call in a professor to assist me; if my people spoil a batch of plaster, from some chemical change that takes place in its relations, I have nobody that I can call to my assistance, to save my plaster, and I am obliged to throw it away.

3093. Viscount *Goderich.*] Do you mean to say that you think a distinguished medical man, or a professor of chemistry, would be entirely incompetent to pronounce upon the qualities contained in drugs?—Not unless he had made it his study.

3094. What do you mean by making it his study?—That he had like myself been in it from his early youth.

3095. Unless he had been in trade you mean?—Yes.

3096. In your opinion no study or knowledge derived otherwise than from being in trade would be of any avail?—I do not think it would qualify him for giving an opinion.

3097. It seems to result from your evidence, that medical men with regard to making up their prescriptions must be entirely in the hands of the chemist?—They are generally, no doubt.

3097.* And without a remedy?—Clearly so.

3098. Mr. *Wise.*] Are you aware of the origin of the inspector of drugs in America?—It originated in some infamous preparations being sent from Birmingham and Wolverhampton; they were barely imitations.

3099. Did not the necessity of that law arise from an immense number of spurious medicines being sent to America, anything being considered good enough for America?—Yes; an account was published in the Pharmaceutical Journal of some blue pill being sent, which was merely coloured with indigo and so forth.

3100. Are you aware that the Spanish government as lately as last December found it necessary to pass a strict law with reference to the importation of drugs from this country?—I am not myself conversant with the subject.

3101. Viscount *Goderich.*] You stated just now, that some advantage might be derived from the powers of the College of Physicians to inspect drugs, did you not?—Yes.

3102. What would be the good of an inspection by the College of Physicians if the College of Physicians is composed of persons who are entirely incompetent to pronounce an opinion upon the subject?—The very fact of a power of inspection existing would be a very wholesome check; they might make themselves acquainted with it. I am speaking more particularly of the drug trade than the prepared articles.

3103. Could they make themselves acquainted with it without engaging in trade?—That is a question which I can hardly answer.

3104. If not their inspection, in your opinion, would be useless?—My notion would go to this extent, that a man who is bred in the trade, and has been in it all his life, is more likely to be a good judge of the articles than a person who has merely a scientific knowledge.

3105. You think some members of the College of Physicians might be competent to perform that duty?—Anybody may learn if they chose; the great misfortune is that physicians go to undue sources for these things. Dr. Pereira, I believe, said that he went to every drug house in London; he never came to me. I just wish to make a slight allusion to myself, without wishing to appear egotistical. I sat here and heard the evidence of Dr. Nelligan, from Dublin, who said he had obtained a specimen of scammony from my house. I said to him as he went out, "Doctor, you have made a mistake; you and I are perfect strangers." He said, "I had it from Drew's house; I had this specimen of scammony." Upon going into the question with him he said he had it from a house in Bucklersbury; he asked me the name of the firm in Bucklersbury. I told him, and he said, "That is where I got the scammony." I insisted upon his coming back to contradict the statement he had made. I went to the house mentioned, and they said, "He got it from us 13 years ago." It shows you the nature of the evidence; when I asked Dr. Nelligan how he came to damage me by stating a thing of this sort, he said my name was uppermost in his thoughts.

3106. *Chairman.*] Is the only plan which suggests itself to you on the subject of preventing the adulteration of drugs, that which you have just named with respect to the College of Physicians employing themselves in inspection?—In the inspection of shops; I have different specimens of scammony to show to the Committee; it is not always a matter of price. Here is a specimen of scammony from Beyrout, sold 10 or 12 years ago at a low price (*handing in the same*). It is one of the purest things that ever came into the market. It is as good as this (*producing another sample of scammony*); that is what we call virgin scammony.

3107. Mr. *Wise.*] What was the price of the scammony from Beyrout?—It was sold to me at 13 *s.* Here is a specimen that cost 40 *s.* (*producing the same*).

3108. What is the difference between those two articles?—Not a particle, except that the Beyrout scammony is rather the purer of the two.

3109. And would have the greatest effect upon the human frame?—Yes, because it contains the largest portion of resin; it has been stated that scammony

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contained so much scammony; if the gentleman giving that evidence had said that it contained more or less resin we should have understood him.

3110. Mr. *Moffatt.*] A very important witness has stated to the Committee that scammony is adulterated with sand, wheaten flour, gum guaiacum, chalk, and woody matter?—I believe it is possible to adulterate scammony with one of those articles, but only one.

3111. Viscount *Goderich.*] When you say that scammony can be adulterated with only one of those articles, do you mean one of those articles at a time, or only one particular article could be used?—Yes, only one.

3112. Which?—Resin of guaiacum.

3113. Mr. *Moffatt.*] You do not believe it is possible to adulterate scammony with wheaten flour or chalk?—Chalk could be easily detected by applying a drop of sulphuric acid; the resin of gum guaiacum would be very difficult to detect.

3114. Mr. *Wise.*] The price of scammony varies from 7*s.* to 40*s.*; although there is very little temptation to adulterate an article, may there not be temptation to contaminate by mixing inferior qualities with superior qualities?—That is true as to drugs generally.

3115. You have mentioned an instance in which you bought scammony at 13*s.*?—I am only speaking of that as a chance thing; that was one of the casualties of the market. Here is a sample of scammony, that is one of the most infamous things ever seen (*handing in the same*). This is offered for sale to-morrow.

3116. Mr. *Moffatt.*] What price will it sell for?—About 5*s.* 6*d.* a lb., if it sells at all.

3117. Viscount *Goderich.*] That article having been bought at 5*s.* 6*d.*, is there no risk that it may, in the hands of the retailer, be sold at a very much higher price?—Yes.

3118. Would you not consider that a fraudulent proceeding?—Most undoubtedly.

3119. Do you consider that scammony useless?—Perfectly useless.

3120. If there were to be any system of prohibition of spurious drugs at the Custom-house, that scammony would be utterly rejected, would it not?—It would be excluded.

3121. Mr. *Wise.*] Where does the scammony come from?—Smyrna. You cannot make a law to control the Jews and Greeks at Smyrna and Constantinople; if you could, we should have nothing of this sort.

3122. Lord *C. Hamilton.*] You said that that last specimen of scammony was useless?—Quite so.

3123. Have you any doubt that it will find its way into the retail trade?—I do not know whether it will be sold.

3124. Mr. *Moffatt.*] If it is sold at 5*s.* 6*d.* a pound, would that be for export?—No.

3125. Lord *C. Hamilton.*] Is that specimen taken out of a small parcel?—No; the bulk of this is for sale to-morrow.

3126. There would be no encouragement to sell it unless it was ascertained that it would find its way into the trade; what is the form in which scammony is generally sold to the public in powder?—It is sold in various ways, but that is the form in which it is sold by wholesale druggists.

3127. Is not scammony generally sold to the public in the form of powder?—I do not know. I am not at all acquainted with the retail trade.

3128. Mr. *Wise.*] Is not scammony sent to the drug grinder's to be ground?—Some houses powder it at home.

3129. Knowing, as I do, that all the first-class chemists sell the very best articles of materia and drugs, what is your opinion with reference to the disposition of the vast amount of inferior and damaged drugs?—I think they find their way into provincial wholesale houses. I must not make any personal allusion, nor should I wish to do so at all to any particular class of persons. I believe they find their way to the provincial wholesale houses; but I give that as my own opinion only.

3130. Mr. *Moffatt.*] Do not the provincial wholesale houses usually buy their drugs of London wholesale houses?—No; a great many of them employ their own brokers.

3131. They correspond directly with the brokers in London?—Yes.

3132. Viscount *Goderich.*] Do you suppose these damaged goods find their way to the provincial wholesale houses, and are ultimately sold to the public as good drugs?—Of course; they are sold to the wholesale druggist, and through the medium of his connexion to the public.

3133. Do not you think that is a dishonest practice?—No doubt.

3134. Does a large amount of such goods get into circulation in the country?—I do not state that I can establish as a fact that there is any at all. I was asked my opinion as to what became of them.

3135. Is there a large amount of such goods introduced into the country annually?—Yes. Evidence has been given with regard to the Apothecaries' Company. It is not quite fairly given, because it is stated that the company buy their goods in the market. They do not buy their goods in the market; they buy them second hand of the wholesale druggists. It has been stated with regard to the Government supplies, that the Government might just with equal propriety go to Stultz, the tailor, and employ him to clothe the army, as to such persons to supply them with their drugs. They are just the same sort of market.

3136. Viscount *Goderich.*] Do not the Government buy their drugs of the best druggists?—Yes; of the best retail druggists second hand.

3137. *Chairman.*] Does any remedy suggest itself to your mind with respect to the importation of spurious drugs?—The remedy I would suggest to the Committee, would be a small duty upon some of the articles; the duties were first reduced in September 1833. It was a great boon to the trade, because the duties were totally out of proportion to the value of the articles, but in 1842, the duties were taken off generally, so as to take away the necessary protection; they were further reduced in 1845 and 1853.

3138. Viscount *Goderich.*] What do you mean by necessary protection?—If there is a certain duty upon an article it excludes a certain quality, which I am prepared to show you by the Custom-house bills of entry.

3139. By protection, do you mean protection to the seller or to the buyer?—To the article itself; if a certain duty has to be paid, it is not worth the while of the party to bring in inferior drugs in the first place; and in the second place the duty would prohibit their being cleared for home consumption. A duty that would take away from us our colonial trade and send it to Hamburgh and other places, would be a bad thing for the general prosperity of the country, but such a duty as 2*d.* a pound upon jalap would prevent such an occurrence as I have to show you here; I thought it best to place the document before the Committee (*handing in the same*). If you will do me the favour to look at that, you will see the Eliza from Hamburgh in November last, there are 55 serons of jalap stalks in the ship's manifest.

3140. *Chairman.*] What do you deduce from that fact?—Those stalks would be ground into powdered jalap, and not possess half the proper strength.

3141. Lord *C. Hamilton.*] Do you mean to impose an *ad valorem* duty?—No.

3142. Viscount *Goderich.*] You mean to say that the article you have alluded to is very inferior?—It is stalk instead of root.

3143. Which ought not to be introduced at all, in your opinion?—Yes; this, the next day, is entered for home consumption, not as jalap stalks, as it is in the ship's manifest, but as jalap. You will see there is the same ship and the same importer; it is the identical thing.

3144. Mr. *Wise.*] When you speak of protection, do you mean protection to the public?—The security would be, preventing the importation of inferior articles.

3145. Not in a trade sense, but in a social and moral sense?—In a trade sense; it would be injurious to impose such a duty as would drive our trade to Hamburgh and other places.

3146. You are of opinion that an arrangement might be made at the Custom-house to prevent the importation of spurious drugs; that a small duty would prevent any increase of the national expenditure, and, at the same time, be a great protection to the public in securing pure drugs?—I think a very trifling duty of 2 *d.*, or at the outside, 3 *d.*, would have excluded those jalap stalks which came in for consumption, to the great injury of the fair trader.

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3147. *Chairman.*] Would you not require a very great variety of duties suited to the different articles?—Only sufficient to prevent the importation of inferior drugs.

3148. Every article would require a separate duty, proportioned to its value in the pure state?—Clearly.

3149. That is the plan which you think would be most efficient?—I have no doubt it would exclude all those inferior things, and not only so, it would exclude damaged goods; if the same duty were levied on a damaged article it would not find its way here; it would be exported.

3150. Mr. *Moffatt.*] Does not the damage generally arise in the transit from the place of produce to this country?—Drugs are awkward things to deal with; they require a great deal of care. We have a great many country damaged goods come for sale.

3151. Lord *C. Hamilton.*] You think a small duty levied upon jalap would prevent the party sending jalap stalks from Hamburgh?—Clearly.

3152. Surely the profit to be got by selling jalap stalks for jalap root, both articles paying the same duty, would still induce the parties to import jalap stalks?—You must distinguish between the merchant and the dealer; the merchant who brings in these stalks is not the person who sells them out to the retail dealers; they go first to the wholesale dealers.

3153. Mr. *Moffatt.*] What is to prevent the merchant importing his own stalks and selling them as jalap if he pleases?—Nothing.

3154. Then if the stalks paid the same duty, seeing that he could buy jalap stalks 50 per cent. under the price that he could buy jalap root, it does not appear that your plan would give any protection?—The persons who send the jalap stalks from Hamburgh, knowing that they paid duty here, would, in all human probability, get a better market for the stalks in Hamburgh than here, taking the difference of duty into consideration.

3155. Assuming a wholesale druggist knows that stalks are selling 50 per cent. under the price of jalap root, the duty being the same, would not the inducement remain to import jalap stalks if he could sell them afterwards as jalap root?—The inducement would be so much less in proportion to the amount of duty.

3156. Viscount *Goderich.*] Your plan would be to have the duty equal upon both articles?—Yes; that would be in favour of the best article.

3157. *Chairman.*] If he could sell the inferior article at the price of the best, would not there be an inducement, the duty being the same, to import the inferior article?—Yes.

3158. Mr. *Wise.*] That applies to tea and other articles, does not it?—Yes.

3159. Are you aware of the practice in France and other continental countries?—I am informed that a great many articles are excluded from France.

3160. Mr. *Moffatt.*] Does any system of inspection of drugs upon importation exist in France?—The importation of many articles is prohibited. I do not think there is any inspection as to quality.

3161. If you sent jalap into France, would not the French Government inquire whether it was pure or impure?—They would not admit it at all.

3162. Mr. *Wise.*] You are aware that the chemists and druggists of Paris are subject to constant supervision and inspection?—I believe they are.

3163. Mr. *Moffatt.*] You say the French authorities would not admit jalap, whether it was pure or impure?—Not from England.

3164. Lord *C. Hamilton.*] Under what regulation is that?—A great many things are prohibited. If you were in Paris and your lady required a little gum arabic, such as is sold by a respectable retail house in London, you could not get it in Paris on account of their colony in Senegal. There is nothing but inferior gum arabic to be had in Paris, the Senegal gum.

3165. Mr. *Wise.*] That is a protection for their own colonial produce?—Yes.

3166. *Chairman.*] Can you give the Committee any information as to the sale of patent medicines?—Yes.

3167. Do you think the sale of patent medicines is injurious to the public health?—It is highly injurious to the public health, because the most powerful drugs, and the most drastic purgatives, are in the hands of patent medicine dealers, who are unacquainted with their properties.

3168. You think that is a state of things that ought to be remedied by law, if possible?—Yes.

3169. Have you any suggestions to offer to the Committee as to the mode in which that difficulty should be met?—I have had great experience in the patent medicine trade, and my notion is, that I should make the 1½*d.* stamp into 3*d.*, and the 3*d.* stamp into 6*d.*; there would, of course, be a considerable increase of revenue, and I think it would tend to check the sale.

3170. Is not the effect of the stamp duty rather to give currency to patent medicines than otherwise; do not you think that the public are somewhat deceived by the belief that the stamp implies that there is Government sanction for the sale of the particular medicine as being useful for the purposes for which it is advertised?—If that is the case it must be amongst a very ignorant class of people indeed.

3171. Is not the ignorant class, generally speaking, the class which buy patent medicines most largely?—I think not.

3172. What advantage do you intend to derive from increasing the duty upon the sale of patent medicines?—To check the sale.

3173. If it be desirable to check the sale, is it not more desirable to prevent the sale if it is injurious to the public health?—Yes.

3174. Did it ever strike you that means might be devised for preventing the sale of patent medicines?—I have thought a great deal of it, but I can think of no plan by which the sale of patent medicines could be prevented entirely.

3175. Are you aware that the question is dealt with in France in a peculiar manner?—No; I know that a vast quantity of spurious English patent medicines are sold in Paris and France generally; I have a case before me now in which an application has been made to persons at Manchester who make Henry's magnesia, by a resident in France; he desires to have the agency from them, and to be allowed to use their labels; hundreds of grosses of Henry's magnesia are sold in Paris and France generally, not having come from Henry of Manchester at all.

3176. Are you aware that the Government in France require that the compounders of every secret medicine, as they call patent medicines, shall state to an authorised body the materials of which the patent medicine is composed?—I am perfectly aware that it is so.

3177. Do you believe that that is at all effectual in preventing the sale of dangerous medicines?—I do not think it is. I have seen advertised in France some very extraordinary things, to which are attributed very extraordinary properties.

3178. The result is that the Government must sanction the sale of dangerous medicines?—Of course it must be so.

3179. It does not strike you that any such step would be advisable in this country, does it?—By any step that is at all constitutional it would be very desirable to stop the sale of patent medicines, but to me it appears a matter of pounds, shillings, and pence.

3180. Lord *C. Hamilton.*] Do you believe there is greater injury done to the public health by the sale of patent medicines than by the use of spurious drugs?—I knew an eminent barrister who was killed by Morrison's pills.

3181. Have you never heard of persons being killed by prescriptions being ill made up by chemists?—Clearly. I heard a fatal case mentioned in this committee-room which occurred in Ireland.

3182. Do you believe the balance of injury is against patent medicines?—I do.

3183. You think it is dangerous to leave the use of those patent drugs in the hands of ignorant persons?—Yes.

3184. Do not you think it would be a useful thing to get rid of the Latin phraseology which attends chemistry, so as to make many more people acquainted with the nature of the things used?—I think it would be a good thing to simplify the nomenclature. I could give the same article half-a-dozen names; it is only dog-latin, after all.

3185. You would give it up without any great struggle?—Yes; we have tried to simplify the nomenclature.

3186. Would not simplifying the phraseology in relation to medicines have more effect than any war against patent medicines?—I think it might have a good effect.

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3187. Mr. *Gregson.*] You say you have tried to simplify the nomenclature; are your labels in English or Latin?—That depends upon whom we send the goods to; we label the goods in English frequently.

3188. Mr. *Wise.*] If I understand you correctly, you think all prescriptions should be written in the English language without any symbols?—It is scarcely a matter I can deal with; I am not very well acquainted with the retail business. It is a matter upon which a respectable retail chemist would be more competent to give evidence than I am; there may be reasons which I know nothing about; I never made up a prescription in my life.

3189. Are you aware that at a kind of sanitary congress which was held at Paris, it was strongly recommended to the nations of Europe generally, that all prescriptions should be written in the native language of the country?—No.

3190. You are aware that the Government of Spain have passed a law enacting that prescriptions shall all be written in the Spanish language?—No.

3191. Is there any distinction between what are called patent medicines and the quack medicines which are advertised in the newspapers?—The same terms apply to both; my opinion is that they should be all taxed with a duty; that any man claiming to himself any peculiar privilege, that is to say, if he says "No other is genuine," I would make him pay a stamp duty.

3192. Would it not be wiser to prohibit all those patent medicines?—It would be very difficult, there are so many interests concerned in it; the newspapers derive great advantage from the advertisements.

3193. Do the parties pay any large sums of money for those privileges?—No; only in the form of advertisements.

3194. If it be for the public advantage, would it not be desirable to prohibit the sale of quack medicines?—I see a great many practical difficulties in the way.

3195. Do not you think all possessors of these secret remedies who might be unwilling to make them public without remuneration, might be called upon to submit a copy of their prescription to a secret tribunal of physicians?—I do not think it would be necessary to have a secret tribunal; they might be placed under the same laws as a man who takes out a patent; if he does not specify his patent correctly, it will not hold good.

3196. Do not you think a tribunal of physicians might examine prescriptions, and certify whether they were for the good of humanity?—Yes; it would be a wholesome check upon the sale of medicines. When any man claims the exclusive privilege of stating that such and such a thing can be had only of him, and that all others are counterfeits, I would make him pay a stamp duty; it would tend to discountenance a great many things. Finding that an article called sarsaparilla was brought in largely from America, I thought it my duty to bring the matter before the Board of Customs. I got a bottle of this sarsaparilla, and drew off the spirit with which it is made, and without which it will not keep. I took a bottle of the spirit in my hand to the Customs. I said, "Here is a very great hardship upon us; we pay a heavy duty upon the spirit; this man is selling a decoction of sarsaparilla without paying duty upon the spirit. Further than that, I have examined it as well as it is possible to examine a vegetable matter, and I do not believe it sarsaparilla at all." They heard what I had got to say, and they said, "Well, you must not consider yourself aggrieved; he pays a heavy *ad valorem* duty upon its coming in, and a stamp duty here. You are perfectly right as to the quantity of spirit it contains. We know that the article is not sarsaparilla as well as you do, but people will have it; and therefore he is sufficiently taxed to prevent your complaint of his getting his spirit without paying duty, when you pay a heavy duty."

3197. *Chairman.*] There can be no doubt that injury to the public health arises from the sale of an article under the name of sarsaparilla which is not sarsaparilla?—Precisely. I do not believe it is sarsaparilla at all; it is an exceedingly difficult question. I should like to have seen brought more clearly before this Committee the matter of vegetable chemistry; it is a matter which scarcely anybody can deal with at all; we fancy that we are pretty good cooks, but we are in great ignorance as to the sources of our drugs. If we could have such a man as Mr. Fortune, and as well informed in drugs as he is in botany, to travel and get the statistics of drugs, it would be of very great use to us indeed.

I was

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I was going to say, with regard to such an article as brown cod liver oil, in my opinion it is nothing but common cod oil; a man professing to sell it genuine should pay a stamp duty, and come under the patent medicine law.

3198. If he is allowed to sell it as a stamped article, would you not require that it should be what it purports to be?—If he is allowed the privilege of calling it what it is not, at all events he should pay for it.

3199. Would you permit him to pay for the privilege of selling an article under one name when it is a different thing?—The truth is, they are essentially the same; it is only the mode of preparation; the common cod oil is the same.

3200. It bears a difference, which chemists can detect?—No; the test is very uncertain indeed; the only test we have is to use a drop or two of sulphuric acid, and see what effect it has as to colour.

3201. That is a simple test, is it not?—It is not universal.

3202. Mr. *Gregson.*] Is the effect of the two species of oil nearly the same?—I cannot speak as to the effect.

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3203. YOU represent Exeter?—Yes.

3204. You have had your attention called, I believe, to the evidence which has been given before this Committee on the subject of adulteration generally, and there are one or two articles especially to which your attention has been directed, among others the article of tea?—Yes.

3205. Will you favour the Committee with any information you may possess as to the purity or adulteration of the article of tea?—Before Easter I saw a statement in the evidence given before the Committee in the "Times," which was so inconsistent with some facts which I received from a very good source, that I thought it my duty, when this Committee assembled again, to mention them to the Chairman. On that day the Honourable Member for Huddersfield was in the Chair, and the Noble Lord asked me whether I could get the gentleman who had given me this information to attend. I said I doubted whether I could do so; upon which he said, "Can you get the information and give it the Committee yourself?" I said I should be very happy to do so, if it was thought desirable to take second-hand, feeling as I did, a great interest in the subject generally; this is what induced me to come here to-day.

3206. To what portion of the Evidence was your attention specially directed?—The portion of Evidence I particularly allude to was that relating to the subject of lie tea; a witness having stated that there was no such thing as lie tea in the market; at all events, he went as far as this, that there was no lie tea now imported; I think he called it *pure* lie tea, meaning, in other words, tea that had no tea in it. A few days before, I had been with a gentleman, a very respectable tradesman, with whom I deal, and he showed me samples, nominally of tea, but which he said had not a particle of tea in them; and he, moreover, showed me the way in which this tea was tested: an infusion was made of it for a certain time; I think there is a bell that gives a ring as an exact measure of time for the infusion to the tester. It is likewise rubbed, to find what the material of it is; he unfolded some of the leaves; they were certainly not tea-leaves, anything else but tea-leaves. This, in connexion with the Evidence I had seen, struck me very much; and after the conversation I had with the noble Lord the other day, I went to this place again, to have these facts verified; and he then assured me he believed it was perfectly true that a great quantity of lie tea, in the state of lie tea, was imported now, with a vast quantity imported in a mixed state; he said that formerly, after the abrogation of the East India Company's Charter, there was a good deal of lie tea imported, and that a good deal of noise had been made about it; but that now the adulteration took place in Canton, and came over here into the market. He then showed me some samples of this tea, and he mentioned some of the ways in which the tea had been adulterated. He spoke of the adulterations some time ago that took place here, but which, he said, he did not think were done so now. He mentioned the fact of having sold some tea,

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some years ago, to a house in the North, which was called "scented caper;" and this "scented caper," it was then the practice to turn it into what was called pearl-leafed gunpowder; he said this species of manufacture was, some time ago, carried on in Manchester and some other towns; and that the ingredients employed to do this were magnesia, turmeric, and gypsum; he mentioned one particular instance that had occurred to himself, of a case in which he sold to a house in the North a parcel of scented caper; shortly afterwards, this scented caper tea was sent to him, to ask his opinion of its value and its quality, under the name of pearl-leafed gunpowder; he tested this tea, and gave a good opinion upon it, upon which the firm to whom he sold it wrote to tell him that he did not know his old friend with its new face.

3207. Mr. *Moffatt.*] What is the inference to be drawn from that?—They meant by that, that this tea-taster was deceived in this tea, which he believed to be tea, as tea would come from China; he was not at all aware that it had come in one shape from China, and been converted into another shape by the ingenuity of some manufacturers in the North.

3208. How was it an old friend with a new face?—It was an old friend of his, inasmuch as he sold it in one shape to the people in the North, and it came back to him for his opinion in a totally different form. What had been called scented caper was turned into pearl-leafed gunpowder.

3209. What year did that occur in?—This was some years ago. The same gentleman stated to me that he did not believe this was done now. His belief went to this, that though there was a great deal of this spurious tea in the market, he did not think it was manufactured here, but came from China.

3210. *Chairman.*] Have you any experience of your own upon the subject?—None whatever. I always took very great interest in favour of the abrogation of the East India Company's Charter and the opening of the trade with China, in some degree in consequence of being intimate with Mr. Crawford, who was the agent of the merchants of Calcutta at that time. I believe I read everything that could be found upon the subject of the trade in tea, and its production; my only interest subsequently has been from taking great pains, as I am fond of tea, to get the best tea.

3211. Do you find a great difficulty in getting good tea?—No difficulty from a respectable house. I believe the adulteration by small dealers is very great, and the mixture above all. I fancy all tea requires more or less to be mixed to suit particular tastes; but it is the mixture of one tea with another; scented tea with unscented tea.

3212. Do you know of the mixture of tea with other ingredients which are not tea?—The only mixture I can speak of is what they call, I think, pekoe-flavoured souchong, which I like myself; I like a tea with a certain degree of flavour and scent. If you wish to know the nature of the adulterations, I can tell you what this gentleman informed me were some of those in the tea that came from China.

3213. Was this a country dealer?—A London dealer; he showed me many specimens recently imported.

3214. I suppose there is some difficulty in inducing him to give his evidence?—He would not give his evidence; he has given me some of the samples that were in the market yesterday.

3215. Mr. *Moffatt.*] What tea can you show samples of?—I have not opened the samples; the tea was in the market yesterday.

3216. Of your own positive knowledge, can you give any information to this Committee?—Yes.

3217. What can you state from your own positive knowledge?—I saw those teas tested the other day, and I saw distinctly, in one or two, a great deal of silk-worms' dung.

3218. Those teas you can purchase in the market at the present time?—Yes.

3219. When were they imported?—I cannot tell when they were imported.

3220. Were they imported five years ago, or two years ago?—I cannot tell; I could get that information.

3221. Is that tea saleable in the market at any price?—I am told it is saleable at a price.

3222. At what price can you buy it?—I did not buy it.

3223. If

3223. If you were to offer 2 *d.* a pound for that tea, you would get it, would you not?—I know nothing about the price, but I am assured that this spurious tea is often a subject of speculation.

3224. Assuming you are able to buy that tea at 2 *d.*, the inference would be, that dealers in tea will not buy the tea?—I am assured there is a market somewhere in England for any rubbish whatever; and that some of this tea which is adulterated, which, to anybody who knows anything about tea, is excessively disagreeable, finds a market in the gin-drinking portions of the metropolis, and is even liked, inasmuch as the dirt in it gives an appearance of strength.

3225. What is the peculiar flavour of that tea which you have analysed?—I did not taste it, but I saw it.

3226. Mr. *Wise.*] It was very like gunpowder tea?—It was made to represent something of that sort.

3227. Mr. *Moffatt.*] Can you state what quantity of this tea has been imported in the present year?—I have no doubt my honourable friend, who has great knowledge of the trade, can get accurate information upon the subject, because he is perfectly well aware that in all places where tea is sold on a great scale, parties who sell that tea have rooms surrounded with boxes, on which are the marks of the tea, and the names of the ships it comes in; he could find people himself competent to test those samples which I am about to place before the Committee.

3228. Evidence has been given before this Committee that the importation of lie tea has practically ceased, and the information you give to the Committee is, that it has not practically ceased. The Committee are anxious to know your grounds for that information. Can you state when the last importation of lie tea occurred, and whether any of those samples you produce before the Committee are of recent importation?—I believe those samples are of recent importation; if my Honourable Friend wishes that to be ascertained, I can do so.

3229. Do you know what ship they were imported in?—No, I do not; but I can get that information.

3230. Mr. *Peacocke.*] They are still sold?—Yes.

3231. The gunpounder tea goes off?—Yes, it pleases the stomachs of the customers; it does go off, to a certain extent, probably in gin-drinking neighbourhoods.

3232. Mr. *Gregson.*] What quantity was in the market?—I cannot tell you that. I can get that information. I have seen a range of those boxes.

3233. Mr. *Moffatt.*] Containing this lie tea?—Many of them containing lie tea.

3234. Is it from a broker or dealer you get this information?—From a dealer.

3235. A wholesale dealer in London?—Yes.

3236. Who has an extensive arrangement of boxes containing samples of this lie tea?—He has samples of every tea that appears in the market; he, I suppose, gets a sample to see what it is; of course he naturally tests it, to protect the stomachs of his customers if he can.

3237. And does your informant fear to give this information before the Committee?—He declined to give information before the Committee. I endeavoured to persuade him to come here, and it is only in consequence of his declining to do so that the conversation took place between my noble friend and myself; he thought it might be useful that this information should be given, because it was perfectly clear that evidence given here was, at all events, incorrect, to a great extent, with regard to lie tea.

3238. It appears from what you have stated, that you have found in the market certain quantities of lie tea or spurious tea, though you are unable to tell the Committee whether that had been recently imported, whether an extensive trade is going on in that, and whether the importations have increased or decreased the last few years, or whether it has practically ceased or is still going on?—The importation of lie tea of bad character has, I am assured, greatly diminished of late years, but the importations of lie tea mixed with other tea, and manufactured tea of a spurious character, are still very large.

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3239. In what proportion does it require that the mixture should be of lie tea with other tea to make it lie tea of a good character?—I am not sufficiently conversant with the mysteries of the trade to answer that.

3240. Will you state to the Committee what you intended to convey when you stated that lie tea of good character was imported?—In speaking of the distinction between the different sorts of lie tea, I meant what my honourable friend means by lie tea of a good character, lie tea that has no tea in it; not even perhaps the sweepings of the manufactory where it is made; that has been sometimes imported; but this lie tea (*producing a sample*) is about half and half; No. 1 is a sample of gunpowder tea (*handing in the same*).

3241. What ship was this tea imported in; are you quite sure it was not made in this country?—I believe it was made in China.

3242. Are you quite sure your informant has not made that tea himself?—Quite certain; I believe my informant is very honest.

3243. Where did he buy it?—I cannot tell.

3244. You know nothing more about it than this, that some person who will not allow you to use his name gave you that sample of tea?—One sample of tea was in the market yesterday.

3245. What was the price asked?—You can ascertain the price, I have no doubt.

3246. Mr. *Swift*.] Was it in the hands of a broker or a dealer?—I cannot tell; I know it was in the market yesterday.

3247. Mr. *Moffatt*.] What do you mean by being in the market?—In the market this day. When I was with this gentleman, on Monday I think it was, I said, "It is quite clear that those samples you have procured from certain parcels of tea are adulterated?" can you send me, this evening, some samples of tea which are for sale at this moment which are fresh, and as far as you know recently imported?" he said, "I can: I will send them to you this evening;" and those are the samples he sent; one is a sample of gunpowder offered in the market.

3248. There is no statement of the ship or importation?—No.

3249. Are you aware, as you have made large inquiries in the tea trade, that it is always usual, when offering samples of tea, to state the importation; the ship in which the goods are imported?—I was not aware of that; but had I been aware that the Honourable Member would ask me that question, I would have taken care to be prepared; he should have had chapter and verse; he should have learned where it was offered for sale.

3250. It is very essential to the value of the evidence that these particulars should be given?—I dare say, if it is considered important by the Committee, the information could be obtained; my motive in tendering my evidence was merely to secure that the Committee should not be misled by any one-sided view of the question; I beg leave to put in these samples (*the same were handed in*). No. 2 is likewise gunpowder tea, about half of which is lie tea; No. 3 is scented caper, half of which is lie tea; and No. 4 is scented caper, half of which is lie tea.

3251. Mr. *Gregson*.] Were these selected from any large parcels?—I am assured that they were.

3252. Mr. *Wise*.] They were offered for sale yesterday, coming direct from China?—They were offered for sale direct from China. I cannot give the ship. I saw one specimen, with which you could make a mark on paper almost like the mark of lead pencil.

3253. Mr. *Moffatt*.] Of your own positive knowledge with regard to tea, you can state nothing except that those samples have been sent to you?—Precisely. There was a point mentioned by the last witness upon which, with the permission of the Committee, I would say two or three words, relating to the question of Customs duties. My own belief is, that there is a good deal in what the witness stated upon that subject. I always thought myself it was a mistake getting rid of all customs duties upon certain articles. The extravagant rate of those duties naturally produced a feeling in favour of getting rid of them, but in getting rid of that heavy duty I confess I have great doubts of the expediency of getting rid of the duty altogether. I think that the subject raised upon that question, with reference to inspection by Custom-house officers, where there is an establishment ready to do it, is a subject well worth consideration.

3254. *Chairman*.]

3254. *Chairman.*] You are aware the question was only raised, not in the sense of financial advantage to the country, but for the purpose of putting a stop to the importation of adulterated drugs?—Where you can have a small duty which will prevent unwholesome or spurious articles being introduced, I think that small duty should be imposed.

Mr. *Julian Rodgers*, called in; and Examined.

3255. *Chairman.*] YOU are an Analytical Chemist, residing in St. George's Road, Pimlico?—Yes, and a Surgeon.

3256. Your attention has been called, in the exercise of your profession, to the subject of adulteration, not only with regard to drugs which come under your immediate inspection, but also with regard to articles of food?—Very generally indeed.

3257. Will you state to the Committee the principal articles of food you have yourself examined, and the result of your examination?—I have for a long time been engaged in the examination of bread and beer; and I am convinced, from my own experience, that an enormous amount of suffering is the result of adulterations in those substances. I will speak first of bread: since I received the order to attend this Committee I have obtained a large number of samples of bread; some of the lowest description, such as is used at workhouses, and upwards towards that which I have reason to believe is used by Her Majesty herself, and in all those samples I have detected alum. This evidence, I believe, is at variance with the opinion of some chemists; but there are certain precautions necessary in the detection of the alum; the ingredient used for its detection will actually dissolve a portion of alumina if in excess; unless there is the precaution of boiling it away you get no indication of alumina; with proper precautions, I should say the quantity of alum generally used varies from eight ounces, to a batch of 116 loaves, to two pounds.

3258. Do you consider the small quantity you have named is injurious?—Yes, even the smallest amount of alum; each two ounces of bread would contain a grain of alum, consequently if a person eat a pound of bread in a day he would eat eight grains of alum at the lowest.

3259. Do you think eight grains of alum injurious to health?—Very. I have found great gastric irritation of various kinds pervading a whole family. I have known that they used the same water that I used; I have known in many other articles of food they used the same, the difference being only in the bread; and I have found, upon the discontinuance of the bread they have been in the habit of using, all those troubles have ceased. I was unable, medically, to do more than to palliate their sufferings, until they used bread containing much less alum.

3260. You consider the daily use of bread containing even a small portion of alum is injurious?—Yes.

3261. Mr. *Peacocke.*] What were the maladies with which this family, to which you have referred, was afflicted?—Pain, after eating, a great deal of flatulence, constipation, and there was a quantity of air generated in the stomach, besides ordinary dyspeptic symptoms.

3262. Mr. *Wise.*] Are not young children especially liable to suffer from alum in bread?—Yes.

3263. *Chairman.*] You found when a different bread was used that your patients gradually improved in health?—Yes; some bakers do not put in alum; they have the best quality of flour from the millers, which enables them, as they imagine, to do without the use of alum.

3264. Is alum the principal adulteration of bread, according to your experience?—Yes; and the most injurious in itself, and it enables bakers to use a very inferior flour, so that when their loaves are made in a batch they will separate nicely, and give it that cohesion necessary for them to sell their bread.

3265. Is there not another object in mixing alum with bread, namely, that it contributes to its weight; will not the bread hold a greater quantity of water?—That has been stated, but the quantity would be very minute; I think that is an error; it is contrary to my own experience, and the experience of bakers, their object being to whiten it slightly, and to use a minute proportion, to allow

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allow of the separation of the loaves. Undoubtedly it occurs that bakers who are undersellers use it to enable them to sell an inferior character of bread.

3266. Mr. *Wise.*] Has not rice the effect of making bread heavy?—Yes, because it will take up a great deal of water.

3267. Is rice flour largely used in the metropolis for mixing with wheaten flour?—Yes, I believe it is; that is only injurious in containing less nourishment.

3268. You are aware there is a law still in existence relating to the metropolitan district, which is 10 miles round the Royal Exchange, which enacts that all bread not made of wheaten flour shall have a Roman M marked upon it?—I have heard that that is the law.

3269. How is it that that law is never enforced, or attempted to be enforced?—I am not aware.

3270. Are you aware that although bakers mix barley and bean meal with their bread, still it is illegal to sell such bread?—I have been made aware of that since the investigations took place in this Committee-room.

3271. How do you account for the great apathy of the people with respect to prosecuting cases of that kind?—The trouble of conducting such investigations; they think it is not their business.

3272. Are you of opinion that some public inspector with regard to bread should be appointed?—Yes.

3273. Would you apply the same law to bakers in London as is applied to the bakers of Paris by public inspection?—I would have public inspection and general inspection; and I am sure that the very general disease you have, in the nature of irritation about the stomach, is to be traced to the bread that is used.

3274. Can you suggest any municipal arrangement which would tend to stop those serious impostures?—I would have an officer appointed by Government, or the local Boards of Health, to take samples, which samples should be analysed by a set of gentlemen appointed by Government for the purpose of analysing all the things brought before them. I would do it in this way: I would have a laboratory fitted up to carry out every possible investigation of this kind as regards poisons, as regards adulteration of drugs with analytical chemists, and botanists appointed in that department; that each health officer should be ordered to send up to the secretary of the Commissioners appointed samples of all adulterated things or injurious things to be sent to those laboratories for analysis, and the result of that analysis to be referred to the Commission, and I would have a sentence, say, a fine imposed. But I consider the greatest prevention would be this: in every case of conviction that the Commissions should order, a policeman to put a notice of such conviction in the window of the person so convicted; and I think the expenses that might be attendant on carrying out a measure of this kind, could readily be defrayed by making each tradesman pay a small licence fee yearly of a few shillings, to enable him to keep his shop, which licence should enable him also, on purchasing of the wholesale dealers, to send a specimen of anything he may suspect not to be genuine to this Board to be analysed.

3275. Mr. *Moffatt.*] Are you aware that any offender who has been found guilty of adulteration of bread in any shape whatever is liable not only to be fined, but to have his name and place of abode published in the local newspapers?—Very few would look at those portions of the newspapers; but those who frequented the shop, and whom he injured by selling those adulterated articles, would know it by seeing he was not to be trusted, seeing a notice in his own window.

3276. Your opinion is that the present law is totally inoperative and ineffective?—Yes.

3277. Mr. *Peacocke.*] Having examined bread bought in poor and rich districts, did you find much difference in the adulteration?—Yes; I found the cheap bread contained a larger amount of alum.

3278. Generally, in other articles, did you find much adulteration?—I have confined myself to those I have, in the treatment of my own patients, found injurious.

3279. Mr. *Swift.*] Speaking of the various qualities of bread, you draw your comparison from the highest and the lowest, that used by Her Majesty and that used in workhouses; are the Committee to understand that those gentlemen

men who are called the Guardians of the Poor are in the habit of contracting for such bread as is dangerous to the health of the paupers under their charge?—I would not have it understood that they are purchasing bread knowing it to be injurious; what I would convey is, that bread, no matter what price is given for it, is adulterated with alum. I might remark, that the quantity I found in one workhouse, St. George's, Hanover-square, was not greater than I found in bread consumed by persons, my own patients, in a good rank of life.

3280. Mr. *Kinnaird.*] What workhouses do you allude to?—Kensington and St. George's. I have repeatedly examined bread through a period of perhaps 16 or 18 years; but on receiving the order to attend this Committee, I thought I would just have a few specimens, so as to speak to the subject up to the present day.

3281. Have you found that the adulteration varied with the price of wheat, or whatever the price of wheat have you found the adulteration much the same?—Much the same.

3282. You do not think it is owing to any pressure or wish to remedy a deficiency for the purpose of gain?—For the purpose of selling bread made of an inferior character of flour, appearing to be good when it is not.

3283. Lord *C. Hamilton.*] In what form did you find the alum in the bread?—As alum, sulphate of alumina and potash.

3284. In a crystalline form?—No; perfectly diffused throughout.

3285. This Commitiee have before them the evidence of one witness who seemed to think there was a decided advantage in this; what is your opinion; does the presence of alum counteract any bad effects that exist in wheaten flour?—I should think not.

3286. Does it supply any nutriment, or any other quality which is wanting in wheaten flour?—I might add to my first answer, that it might prevent mould; the bread would turn and get mouldy more rapidly without alum than with it. With regard to the second question, as to its affording any advantageous thing to the system, I am clearly of opinion, from my own experience, it does an immense amount of injury, and can be beneficial only in such cases as those in which alum may be prescribed by medical men.

3287. One witness described that it made the bread lighter, and made it eat shorter?—It would not.

3288. Your opinion is, that in no case, except in preventing the presence of mould, is the use of alum in bread advantageous?—Yes.

3289. Medically it is prejudicial?—Yes.

3290. Mr. *Wise.*] Can you suggest any simple easy mode by which the great mass of the people can test their bread?—I do not think there is an easy way for them to do so.

3291. Mr. *Kinnaird.*] What steps did you take to test the alum, when it was, as you say, not in a crystalline form, but thoroughly mixed with the flour?—Ordinarily soaking the bread in pure distilled water for a few hours, and gently pressing the bread, and filtering the liquid coming from it, and testing the filtrate; that is, the liquid that comes from it; the alum being soluble, and the majority of the ingredients of bread being insoluble, you can so test it.

3292. Mr. *Peacocke.*] How do you test the water?—By adding ammonia to it, which will throw down the alumina, and then afterwards testing that precipitate, to see that it possesses the proper properties of the alumina, so as to avoid all source of error.

3293. Mr. *Wise.*] By dropping a few drops of liquid ammonia into the solution?—Yes.

3294. Mr. *Kinnaird.*] What is the greatest amount of alum you have found in one quartern loaf?—I have never subjected it to that kind of analysis; it has been too evident a fact, where alum was present in the cases in which I have found such difficulty of treatment, which led me to suspect some article of diet was the cause of it.

3295. Have bakers a regular stated quantity which they use, or does it vary?—They have a stated quantity. Bakers of the first class use a very minute quantity; six or eight ounces to a batch.

3296. Mr. *Moffatt.*] What quantity of flour?—What they term a batch, 116 loaves.

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3297. Mr. *Peacocke.*] Would that test you have given be a tolerably easy test for any person to apply?—The poor could not afford to have a stoppered bottle; moreover it would be dangerous; it would be a poison; any child getting hold of the bottle might in tasting be really killed from its action; the ammonia that would be used is in fact a poison.

3298. Mr. *Wise.*] Any person taking proper precautions might apply the test successfully, and prove that alum is in bread, just as applying liquor ammoniæ to turmeric turns it a dark red?—Yes.

3299. Mr. *Gregson.*] Is a filter necessary to performing the experiment?—It is best to do so; you have small particles floating about in the fluid that you have strained off the bread, and you might imagine that those particles were the alumina.

3300. The expense of a filter would increase the difficulty of making the experiment, would it not?—A piece of blotting paper could be placed in a funnel and the liquor poured through.

3301. Mr. *Moffatt.*] What is the profit arising to the baker in putting this quantity of alum into the bread?—If he did not put this small quantity of alum in, the loaves, on being parted one from the other, one portion would stick to another; it is possible the half of one loaf might be sticking to the opposite half of another; he would not have his bread in a saleable form, so that the advantage to him is to prevent injury to his loaves.

3302. He gets no advantage, save that his bread divides more readily, and it has a whiter appearance?—Yes.

3303. *Chairman.*] Do not you consider he gets a great advantage if he is able to sell inferior bread as better; the Committee understood you to state that there is an improvement in the appearance of flour by the use of alum, and therefore flour of an inferior quality has the appearance of being a superior article?—Precisely. I understood the question to refer to the best kinds of flour.

3304. You were asked what advantage, in the way of profit, the baker derives from the admixture of alum with his bread?—First, the separation of his loaves, and secondly, that the inferior flour would never get into shape unless alum was present.

3305. Mr. *Moffatt.*] Does the superior kind of flour require the use of alum?—I have been informed by excellent practical bakers that it does not; if you have the best flour to work with, and mix a small quantity of old flour with it, then the old flour gives the same disposition to separate that the alum does,

3306. Mr. *Wise.*] In fact, a baker may use wheat costing 56 *s.* a quarter with alum, instead of 70 *s.* wheat without alum?—Precisely.

3307. Mr. *Moffatt.*] Have you ever found bread adulterated with any other ingredient but alum?—No, except potatoes.

3308. You say the minimum of alum is eight grains in a 4 lb. loaf?—Yes.

3309. Eight grains of alum on delicate persons will have a pernicious effect, in your opinion?—Yes.

3310. Would you propose to prevent the use of alum by some stringent provisions?—Yes; I am satisfied that respectable bakers would be very glad indeed. I have had repeated conversations with men standing high for respectability as bakers, and they have one and all told me they wish it was put a stop to.

3311. I think you said you never found crystals of alum in bread; you believe, as a chemist, there could be crystals of alum remaining in bread after it was properly baked?—It depends not upon the baking, but the way the alum has been introduced. If the alum has been mixed with water and dissolved by boiling, you would never have any crystals. If they just diffuse the powdered alum through the flour that they make into bread, they would get crystals.

3312. You do not believe the heat to which bread is exposed in baking would cause alum to lose its liquid form and become crystalline?—Certainly not.

3313. Lord *C. Hamilton.*] Do you imagine the practice of mixing alum in a powdered state with flour is very prevalent with dealers in flour, or that the main adulteration is practised by the bakers?—I think it is prevalent with the millers; I would mention this fact; I know a baker, who I am satisfied never puts any alum in his bread, and yet I have detected alum in it; I know he has never put it in.

3314. You stated there was a respectable baker, with whom you conversed, who told you how glad he should be if the practice could be stopped; did he offer

offer any suggestion as to how you could prevent the dealers in flour imposing upon the bakers as they do?—At the time of this conversation I was not aware of the presence of alum in some of the breads I have examined.

3315. Mr. *Swift.*] The absence of alum in the second quality bread would cause the bread to be much darker?—It would, unquestionably.

3316. Mr. *Wise.*] With regard to the means of detecting the presence of alum in bread, do you know whether by soaking a little bread in water, and by adding to the liquid so taken the white of an egg, when these are mixed together the alum would not turn opaque; have you had your attention turned to that simple test?—I do not think it would; the quantity would be too small to make the liquid opaque; and besides, there is a little opacity produced in mixing the white of egg with water. I have repeatedly done this for the purpose of showing my pupils the way of mixing egg with water in antidotes in certain poisons. It may be sometimes from some of the constituents of the water, and that would be liable to be confused with the effect of alum.

3317. Supposing there were a large quantity of alum, would that effect be produced?—It would.

3318. *Chairman.*] I believe you have examined beer also, to see if it was pure?—I have for many years turned my attention to the effect of beer upon human beings, if I may say so, after the manner Dr. Marshall Hall has proposed with dogs, as a test of strychnine; and, I myself, on finding certain beers possessed characters not possessed by malt and hops, entered into conversation with the consumers, and thus I know there is a large amount of beer sold by publicans, which seems exceedingly weak at the time, but which after a time will produce an intoxicating effect, but is not productive of any additional strength in their bodies. On the contrary, they will feel weak; that I apprehend is the case with a very large amount of beer consumed in London, and I have no doubt that is owing to the presence of cocculus indicus. On receiving the order to attend this Committee, I purchased several specimens of beer; but the necessary experiments for the detection of cocculus indicus in beer are so laborious, that I have not up to this time quite finished them, but I have not the least doubt, from the effects ascertained by the beers I have purchased, that those beers are adulterated with cocculus indicus.

3319. You know the effect of cocculus indicus upon the human system?—Yes.

3320. This beer which you say is not strong to the taste, nevertheless produces the appearance of intoxication, and its effects are analogous to those of cocculus indicus?—Yes.

3321. You cannot trace them to any other cause?—No.

3322. Mr. *Gregson.*] What are the effects of cocculus indicus upon the human system?—The destruction of the pointedness of the ideas of a person, headache and oppression, and an indisposition to all muscular action.

3323. *Chairman.*] When you use the term beer, do you mean porter?—Porter, stout, and some of the ales.

3324. You think they are liable to adulteration?—Yes.

3325. Do you know any use for cocculus indicus medically?—It is applied to no use; it is a substance which ought not to be imported into this country.

3326. Do you know of any use for cocculus indicus in commerce?—None whatever.

3327. Mr. *Moffatt.*] Is there any large quantity of it imported?—There is a large quantity, according to the statements of brewers and other men.

3328. Have they used it of late years?—I do not know.

3329. Mr. *Kinnaird.*] You maintain that cocculus indicus is simply used for the purpose of adulteration?—Yes; it comes into the market, and it disappears, and no one knows what has become of it. I mentioned the subject to the steward of a nobleman, and he assured me that he was aware of a small brewery in the country where he could always get cocculus indicus if he wanted to poison a few fish.

3330. Mr. *Gregson.*] It is imported openly, and sold openly?—Yes, it is prepared by the druggists for the brewers and the publicans; it is, generally speaking, acted upon by water, to extract all the active principle, to destroy the appearance of the berry, and the extract is sold.

3331. Is it bought by the brewers' druggists?—It can be obtained from the brewers' druggists, under the name of multum.

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3332. What are brewers' druggists?—The persons who sell various drugs to brewers.

3333. And you think they sell drugs which are prohibited by law from being used?—Yes.

3334. Lord *C. Hamilton.*] They said that they had given up the practice, and did not call themselves brewers' druggists?—They may call themselves something else.

3335. *Chairman.*] Does such a class exist now?—I do not know.

3336. Mr. *Kinnaird.*] Have they any other name but multum?—I think another name is hard mixture.

3337. Is there any other article carrying a name of that sort?—Not sold under that name; they have other extracts. Perhaps I might mention that a person told me, and I have every reason to believe in his honesty, that, he being a builder, had built a public-house, and had it licensed in his own name, so that he might afterwards sell the business, he having resided there for a time, and therefore would make more money. He had no intention of being a publican, and therefore he had no hesitation in saying things to me that another would not. He assured me that he had persons visiting him and offering for small sums to show him how he could make three barrels of beer out of two, and such that his customers would like.

3338. Mr. *Peacocke.*] Is there any test by which you can detect the presence of cocculus indicus in beer?—Yes, it is most troublesome, but at the same time it is most conclusive. The form of the crystal of cocculus indicus is very conclusive as to its presence. The plan of proceeding is to separate everything from the beer but this alkaloid of cocculus indicus. This picrotoxine bears the same relation to cocculus indicus that quinine does to bark; it is in a very definite form, and after getting it into such a form, you could get it to a liquid condition, and subject it to microscopic examination. It is known that beer ought not to contain anything that will give a crystal, anything like the form of that which is found in beer containing cocculus indicus. I might remark that Mr. Herapath, of Bristol, has repeatedly done it. The investigation is a laborious one, and occupies a great deal of time; and therefore, unless there is some definite object in view, it is rarely done.

3339. From the analytical examinations you have made, have you found the presence of cocculus indicus in malt liquor?—Physiologically, I have. I have no doubt in a few days I could have produced microscopical proof from the specimens I have commenced examining.

3340. Do you know of any other test except the one you have mentioned?—I believe those are the most delicate tests.

3341. Mr. *Wise.*] You throw out all the gum and colouring matter?—Yes.

3342. Mr. *Kinnaird.*] Did you gather from the publican you referred to, that adulteration was chiefly taking place by the publicans or by the brewers?—More the publicans.

3343. Then those persons who are called brewers' druggists ought to be called publicans' druggists?—The small brewers' druggists and publicans' druggists.

3344. Mr. *Wise.*] Have you ever heard any insinuation of adulteration on the part of the great London brewers?—Never.

3345. Mr. *Peacocke.*] Have you tested their malt liquor?—Yes, I have physiologically; and where it has come direct from the brewery I never found any bad effects from it.

3346. Have you subjected it to the test of scientific examination?—No.

3347. Mr. *Wise.*] You say cocculus indicus is never applied to any useful purpose?—No.

3348. Do you see any use for it at all?—No.

3349. Might it not be strictly prohibited?—Yes.

3350. Mr. *Moffatt.*] Is it always imported as cocculus indicus in the berry?—Yes.

3351. If the importation of cocculus indicus was prohibited, might not it be imported under some other name?—It might in the way of extract.

3352. Mr. *Gregson.*] Do you know several shops were cocculus indicus or multum, as it is called, can be bought?—The cocculus indicus is to be bought at any druggist's.

3353. Mr. *Moffatt.*] Is it not publicly sold in the wholesale drug market?—Yes.

3354. Mr. *Swift.*] You say that you can obtain it at any retail druggist's?—Yes.

3355. If it is only used for the adulteration of beer, and the publicans have recourse to brewers' druggists, why is it kept by ordinary druggists?—I do not know that they do keep it; I have purchased it of them.

3356. Mr. *Gregson.*] Have you asked for cocculus indicus, or multum?—Cocculus indicus.

3357. Mr. *Wise.*] Cocculus indicus comes from the Levant, does not it?—I do not know.

3358. Mr. *Peacocke.*] Is it ever used for dye?—No.

3359. *Chairman.*] I believe you wish to give some evidence on the subject of poisons; will you state to the Committee your views?—A large amount of poisoning could be prevented by the restriction of the sale of poisons, and, as has been already stated in this Committee, by not allowing any poison to be sold unless the person purchasing is attended by some one known to the vendor of the poison, and also by always mixing the poison with some colour that should give evidence of what it is. But there is a class of poisoning which you would not prevent, that is what I would term poisoning by an educated person. There is a large amount of poisons that could be purchased in a harmless form; there is a substance you might purchase tons of, and take ounces of, without its being injurious; yet, by the simple process of heating it to redness, it would enable you to form prussic acid in very large quantities; it is now the ordinary substance used for the preparation of all the prussic acid that is prescribed, that substance and sulphuric acid being all that is used; you may convert starch into oxalic acid by very simple means; and with regard to arsenic, you might prevent its being sold by those who keep it in minute quantities; you might have difficulties in purchasing an ounce or a pound, but no difficulty in purchasing a ton of it.

3360. You would not allow the purchase of the essential oil of almonds?—No, except as an essence, which is a solution of the oil in spirits of wine. The great prevention of poisoning would, in my opinion, be the insuring the certainty of detection; that can only be done by appointing persons in various districts, for the purpose of making all the analyses that may be required in cases of poisoning, and that some person should be appointed to make a post-mortem examination when necessary. When medical men are called to a case of poisoning they find that they cannot make the analyses, because they lose money by having to employ some one else to do it, and they will frequently slur over the investigation rather than lose money.

3361. Mr. *Kinnaird.*] Have you reason to believe, from your experience, that the poisoning of human beings is far more common than is supposed?—I think so.

3362. Have you studied the question?—I have studied the question, and marked it very closely.

3363. What poisons do you believe to be most commonly used?—I believe the most common poisons would be nux vomica and arsenic. I believe that those poisons are used more than persons would imagine. Perhaps I may be allowed just to make one observation upon the present law with regard to the investigation of poisoning at inquests. If a medical man is called to a person, and he finds he is just dying, and afterwards it is necessary upon the inquest to perform an investigation, he gets a guinea for his evidence and one for the post-mortem examination; if perchance it is a case involving a charge of murder, he is forced, if he is capable of doing it himself, to devote six or seven days to the requisite analysis, which is frequently necessary, he gets no more; and if he has to employ any one else, he gets less; and that operates very badly in the detection of poison.

3364. Mr. *Wise.*] Do not you think it would be a great check upon the sale of poisons if, in the first place, all chemists and druggists were licensed; and secondly, that all persons applying for poisons should have the application backed by some medical authority?—I think it would confer more protection that no person should sell any poison to another without that individual is accompanied by some one personally known to the druggist; that can always be done where there is no criminal purpose intended.

3365. Would not an order from a medical man answer the same purpose?—

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He must go to a druggist to whom the medical man is known, and then it would amount to the same thing.

3366. If the quantity required were above what is called prudent practice, then the certificate of the surgeon and of the medical man, whoever he was, would be a guarantee that the article should be supplied?—It would.

3367. Your opinion is that some decided check upon the sale of poisons is called for?—Yes.

3368. Mr. *Peacocke.*] Do you mean with a view of preventing suicide?—No; secret poisoning.

Mr. *Edwin Wickham*, called in; and Examined.

Mr. *E. Wickham.*

3369. *Chairman.*] I BELIEVE you are or have been engaged in the brewing business?—Yes, I have.

3370. Are you so still?—No, not at present.

3371. You have had experience, I suppose, in some considerable brewery, as to the practice in brewing beers?—Yes.

3372. Will you state to the Committee what that experience leads you to believe is the practice of those establishments?—From my experience in brewing, I believe that the great adulteration of beer takes place in the cellars of the publicans, and not in the breweries, although I know it is done by some brewers.

3373. Mr. *Gregson.*] Is your experience in London?—In the country, and also in London.

3374. Did you ever know an extensive brewer in London who was guilty of adulteration?—No, not from my own experience; I can only form an opinion by the taste of the beer.

3375. Generally speaking, your evidence goes to this, that the brewers are not adulterators of beer?—They are not, in my opinion; where adulteration takes place, it is generally in the publicans' cellars.

3376. Do you believe that the adulteration of beer is a common thing?—Very common; so much so, that the exception is those who do not adulterate; and I believe those exceptions are very few.

3377. Have you any means of ascertaining of what the adulteration consists?—I know what the usual adulteration is; the proportions generally used are, "To one barrel of porter eight gallons of water, six pounds of sugar, one pound of gelatine (or patent size will do), a handful of common salt, extract of gentian or quassia to restore it to the original bitter flavour, sulphate of ammonia to bring it back to its colour, half an ounce of sulphate of iron, and if required to taste oldish, an ounce of roach alum."

3378. What is your authority for that prescription?—I have known it to be used.

3379. Mr. *Moffatt.*] Do you know that it is generally used?—I have known it to be used in many instances amongst publicans.

3380. *Chairman.*] A barrel is 36 gallons, is it not?—Yes; and that is the most approved recipe I have ever met with.

3381. Mr. *Gregson.*] Do you think the taste of that beer which has been adulterated in the way you describe, is generally preferred by the public to that which is not mixed?—I will not say that exactly; the articles I mentioned give it as nearly the original flavour as possible.

3382. Mr. *Swift.*] Have you had any experience in the adulteration of ale?—Yes; I can speak to that as well.

3383. *Chairman.*] What is the price of porter per gallon?—One shilling at present; and there is a discount of five per cent.

3384. In 36 gallons, the publican would save 8 *s.*; what would those articles come to which you have enumerated?—Not above 2 *s.* 6 *d.*

3385. Mr. *Moffatt.*] At what price do you calculate the sugar?—Fourpence a pound; gentian is cheap, and quassia is cheap.

3386. That would give the publican, according to your calculation, an additional profit of 5 *s.* 6 *d.* for every barrel of beer?—Yes.

3387. Mr. *Swift.*] Is it not customary for publicans to sell the beer at the price which they pay to the brewers, so that this adulteration forms their actual profit?—Yes, many publicans do so.

3388. Mr. *Moffatt.*] So that if this practice were not followed the public must, of necessity, pay a higher price for their beer?—Yes.

3389. *Chairman.*]

3389. *Chairman.*] Have you heard the evidence given by the former witness regarding the use of cocculus indicus?—Yes, I have.

3390. Do you at all believe in the use of cocculus indicus by publicans?—I do not think it is used by publicans.

3391. You believe they do not use any material injurious to the public health?—Except copperas (sulphate of iron), and roach alum. I have known single instances of tobacco being used in beer. Those articles I mention as being generally used. Perhaps, occasionally, you might meet with a publican who would use tobacco in his beer.

3392. Mr. *Swift.*] How did you gain that experience; you speak generally as to the practice of publicans?—Merely from my having been connected with the brewing business so many years, I have known it to be the case. I have known detections made amongst publicans.

3393. Brewers, you say, do not adopt this fraud?—They do not generally. I know there are certain ingredients used by brewers in a small way of business. I do not know of any instance of their being used in the case of large brewers.

3394. Mr. *Gregson.*] What are those ingredients?—I have known quassia used in a brewery and roach alum, and also sulphate of iron. I have known cocculus indicus used in a brewery, but merely used as an experiment.

3395. Mr. *Swift.*] You do not think that cocculus indicus is used generally by brewers, or by publicans?—No; I know that this particular brewer used some cocculus indicus, but he drank his own beer that he made from it, and it had no effect upon him.

3396. Mr. *Gregson.*] Do you mean that it had no prejudicial effect, or that it did not intoxicate?—It did not intoxicate him.

3397. Mr. *Peacocke.*] Your experience has been confined to brewing beer?—I have known the trade generally; in my situation as a brewer, it was my duty to visit the publicans' cellars to keep them from this sort of thing.

3398. The only test you have alluded to for beer, is drinking it?—I could only tell by that whether they had been doing anything with their beer.

3399. Was not it owing to the excellence of this mixture that even you were taken in?—No.

3400. Could you by your taste detect the difference between that mixture which you speak of and the original beer supplied to them?—Yes.

3401. The public could not?—Not generally, unless they were very excellent judges of beer and made it their study.

3402. How do you account for the presence of cocculus indicus in beer which the last witness spoke of, if neither the publican nor the brewers put it in?—I do not believe it was put in, though I heard the last witness say he could detect the presence of cocculus indicus; I do not know any test for it.

3403. Probably you have not extended your studies to chemistry?—I have had certain samples of beer tested by a chemist, but he never could discover any one vegetable extract from another.

3404. Mr. *Gregson.*] Were those samples from brewers or publicans?—Beer which I had mixed on purpose to try whether he could find those articles.

3405. Mr. *Peacocke.*] To see whether he could detect them?—Yes, to see if he could detect my roguery.

3406. Lord *C. Hamilton.*] Did the person you refer to tell you others did it with success?—Yes. I did not intend this answer to imply that other persons were successful in detecting adulterations.

3407. Therefore the practice does obtain somewhat in the trade?—Yes, I believe in Derbyshire cocculus indicus is used by publicans; I know the publicans there generally brew their own beer, and I believe it is used to a great extent there; I have been told so by excise officers.

3408. Gentian is generally used instead of hops?—Yes, by publicans.

3409. Mr. *Moffatt.*] Have you ever known gentian used instead of hops, in making beer?—I have known quassia used by brewers.

3410. Have you known beer brewed in which there were no hops at all?—No, not without hops; the bitter from quassia is so pungent a bitter that it could not be used without hops; the bitter from quassia remains in the throat very long after the liquid has passed down the throat, so long as to become unpleasant to the taste.

3411. You have only known, that when the brewers used inferior hops they have

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have used a small quantity of quassia?—Yes; the bitter of 1 lb. of quassia is equal or 16 to 20 lbs. of hops.

3412 Is quassia at all injurious to the public health?—No.

3413. Mr. *Peacocke.*] Have you ever been surprised at all by the quickness of the intoxicating effect of beer upon the parties who drink it?—I do not think I ever observed that parties get intoxicated quickly on beer.

3414. If you knew, as a fact, that parties did get intoxicated quickly on a small quantity of beer, would not that lead you to suppose that there was cocculus indicus, or some intoxicating compound, in it?—I have tried a great many articles, in order to induce intoxication, and I cannot produce it quicker than by the real thing, malt and hops.

3415. *Chairman.*] Did you ever try cocculus indicus?—I have seen cocculus indicus tried; I never drank any of the produce of it myself. I have got the extract from an ounce of cocculus indicus, and mixed that in a proportion of beer, for a brewer who was desirous of testing this thing himself; and he drank it; I did not.

3416. Lord *C. Hamilton.*] Did you ask for cocculus indicus, or the technical name we heard?—I asked for cocculus indicus, and had it ground for me.

3417. Mr. *Moffatt.*] What was the effect upon the man who swallowed the decoction?—No effect; he drank three pints of beer, and the extract of cocculus indicus mixed with it.

3418. You think you could get intoxicated more rapidly with gin than beer?—Yes.

3419. Mr. *Peacocke.*] Have you ever heard of multum?—Never before to-day.

3420. Mr. *Gregson.*] You think three pints of beer would not make a person intoxicated?—No; he, the brewer I spoke of, considered that that proportion ought to make a man intoxicated.

3421. Mr. *Swift.*] You said that cocculus indicus, so far as your experience went, was employed in the breweries of Derbyshire?—I was told so by Excise officers.

3422. Do you know why they use it in preference to ingredients which are so very much superior?—No.

3423. The large brewers in London, you say, sell porter at 1*s.* a gallon; when they see it retailed at public-houses at the same price, they must know that there is some adulteration?—They must imagine so.

3424. A man could not keep a large palace of that character and live on no profit?—No.

3425. Mr. *Kinnaird*] Is that creamy effect produced in bottled beer the genuine production of malt and hops, or is there some ingredient put in that gives that appearance to it?—I think it is the real effects of malt and hops. I do not think there is anything put to it to cause that.

3426. Lord *C. Hamilton.*] Do you know of any chemical admixture being put for the purpose of raising a froth?—No.

3427. Mr. *Swift.*] Is not copperas used for that purpose?—That is the use of copperas in draft beer. I know of no other use of copperas in beer than that.

3428. Mr. *Gregson.*] Is it generally used for that purpose?—Yes; roach alum also tends to give it a head. I would also remark that it is in the power of the Excise generally to put a stop to the adulteration of beer.

3429. *Chairman.*] In what way? The Excise have now the full power to enter a publican's cellar, to make what examination they please in the cellar, at all reasonable times. If they were to carry that out, they would, in a great measure, stop the adulteration. I am satisfied, if I had the assistance of two Excise officers, I could detect amongst publicans three cases a week, at any rate, of the use of these articles.

3430. They do not go in sufficiently frequently, or choose their hours?—They have not time to go into these matters thoroughly. The Excise officer has a great deal to do, and he is supposed to walk as much as 16 or 20 miles a day.

3431. Lord *C. Hamilton.*] Their great object is to get a money fine; it is more to protect the revenue than the public health?—Yes.

John Ayshford Wise, Esq., a Member of the Committee; Examined.

J. A. Wise, Esq., M.P.

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3432. *Chairman.*] YOU have had a communication, I believe, with some of the British authorities in Spain?—Yes; a friend of mine who was connected with the public service of this country in Spain, hearing of this Committee, communicated to me that the Spanish Government, in consequence of the immense quantity of adulterated drugs and other articles which came from this country into the ports of Spain, found it necessary to look into that question, and last December the Cortes passed a law creating a Council of Health, subordinate to the Ministry of the Interior, with regard to the question of the adulteration of food, especially with regard to the adulteration and contamination of drugs. I have selected from his very voluminous correspondence three points, the inspection of drugs, the dispensing of medicines, and secret and patent medicines, all of which have been alluded to. With regard to the inspection of drugs, at all first-class custom-houses in Spain there are two inspectors of medicinal substances, who are to be doctors or professors of pharmacy; in other custom-houses there is one inspector; all drugs and chemical products are to be examined and analysed by the inspectors, and if false names are given, or any articles brought in a mixed or adulterated state, and their use in any way calculated to injure health, the inspectors are to recommend their destruction; but this extreme measure is not to be resorted to until after consultation with the Board of Health. With regard to dispensing medicines, the rules and regulations are that duly and legally authorised apothecaries are the only persons allowed to dispense medicines, whether simple or compound, and the apothecaries must not make up any medicines without a medical prescription. One of the members of the Committee has alluded to prescriptions being written in the native language; in Spain the order is, that all prescriptions of doctors must be written in the Spanish language without erasure, abbreviation, alteration, interlineation, or any kind of correction, and must clearly express, without any sign or symbol, the quantity, weight, or measure of the ingredients. Apothecaries are not allowed to dispense quack medicines, or to make up doses ordered with a greater quantity of drugs than those specified in the formularies, and exceeding that which prudent practice would authorise, without first referring to the doctor who drew up the prescription; should the doctor insist that there was no mistake, and that his prescription be made up, he must write at the foot of his prescription, and sign for the guarantee of the apothecary the following note: "At the instance of the apothecary I ratify this prescription, and I hold myself responsible for any consequences that may ensue." With regard to secret medicines, all secret medicines are prohibited, and all privileges and patents for their manufacture and sale are abrogated. Every possessor of a valuable secret remedy, and who is unwilling to make it public without pecuniary remuneration, is to communicate his recipe to the Minister of the Interior, with a circumstantial report of the trials or experiments he has made to ascertain its efficacy. These documents are to be forwarded to the Royal Academy of Medicine, where a commission will be appointed to examine the remedy, to consult the inventor if deemed expedient, and to make their report. If after the necessary experiments the remedy be found useful to humanity, the academy will propose the recompense which ought to be granted to the inventor, and should the inventor consent to accept the sum proposed, the remedy will be made public, and its composition will be recorded in the official dispensatory, and be made one of its formulas. Those are the regulations my friend has communicated to me from Spain. Perhaps they may tend to throw some little light upon the subject.

3433. Mr. *Gregson.*] Does he know how long those regulations have been in operation?—Since last December.

3434. Mr. *Swift.*] That was owing to the quantity of adulterated drugs sent from this country?—Yes.

Mercurii, 16° *die Aprilis*, 1856.

MEMBERS PRESENT.

Lord Claud Hamilton.	Mr. Wise.
Mr. Moffatt.	Mr. Otway.
Mr. Peacocke.	Mr. Kinnaird.
Mr. Swift.	

LORD CLAUD HAMILTON, IN THE CHAIR.

Mr. *Potto Brown*, called in; and Examined.

Mr. P. Brown. 16 April 1856.

3435. *Chairman.*] YOU are engaged in the trade of making flour very extensively?—Yes.

3436. And have been so for some years?—Yes.

3437. From time to time I presume your attention has been called to the habits of the trade, with respect to not producing a pure article?—Yes; I would just say that the character of the evidence I am about to give has for its object, in some measure, doing away with the inconvenience which there is in the making of good flour by the statute of the 6th and 7th Will. 4; my object is to do away with these restrictions. I have been in the mealing business about 40 years, and I do not profess to explain the chemical properties of flour. I confine myself principally to the practical results of my own experience in making wheat into flour, and I have studied to make that sort of flour which would produce the greatest quantity of bread. Then I would further add, that foreign wheat is better than English; that there is less art employed in its cultivation, the land producing only about 20 to 25 bushels per acre; foreign wheat is grown principally on maiden soil, and each grain of wheat contains a greater proportion of gluten, the quality being more condensed. English wheat makes weaker flour than foreign wheat, the land producing a much greater quantity, from 27 to 32 bushels per acre. The millers in the country have great trouble to compete in quality with foreign produce; my business being in London, I find that the London bakers are very particular about the quality of the flour they use, and that they are good judges, and know its value to 6*d.* per sack; they require the flour to produce bread of the following quality: the loaf must be of a white colour, and a good height; the corners free from a doughy skin; the crust not to dye of a brown colour; it must cut with softness, with a plain surface and no large holes; the reasons why there should be no large holes is, that the industrious classes are very particular when they spread their butter it should not slip into holes and consume a large quantity of butter; they like an even surface. It may perhaps appear trivial to the gentlemen present, but the lower classes consider it to be of great importance. To give the above qualities to my flour I add one part of bean flour to 60 parts of wheatmeal. Never more than one part in 40. One in 60 is almost my universal practice. When the wheat is grown and injured, in a wet harvest, I add one part in 40. The object of adding the beans is to create the qualities which I have before described. As I said before, I do not profess to give any scientific description of the quality of wheat, but I may add that I learn from Johnson's Chemistry of Common Life that beans contain 24 per cent. of gluten, that wheat contains 10, and that rice contains 7 ½, and potatoes eight, and I may add that beans are very nutritious, and as shown before, contain more gluten and produce more flesh than wheat.

3438. Mr. *Peacocke.*] What do you mean by that expression?—If we give beans to animals they lay on flesh quicker and faster than wheat.

3439. Mr. *Wise.*] How much per cent. did you say that wheaten flour had in gluten?—I learn from Johnson's Chemistry of Common Life (I do not profess to understand chemistry) that it contains 10 per cent. of gluten.

3440. How much per cent. of starch?—Seventy-two per cent., two per cent.

of

of fat, and sixteen of water. The beans add to the strength of the flour, containing more gluten than wheat, and cause the dough to bear more fermentation without its becoming sour, therefore giving more of the qualities that the bakers require for bread. If too many are added, a doughy streak makes its appearance a little above the bottom crust of the loaf. They are put in to improve the quality, not to cheapen the price. The use of beans is attended with much trouble; they require to be twice kiln-dried, split, husked, and ground. They produce for human food 65 ½ per cent.; for food for cattle, 16 ½ and 18 per cent. waste. I may observe that wheat varies very much in the quantity that is produced in the district wherein it may be grown; therefore, my observations are confined to wheat grown in Huntingdonshire and the Isle of Ely. Our wheat contains 76 per cent. of flour, 20 per cent. of offals for cattle, 1 per cent. of seeds, and about 3 per cent. of waste. White peas improve the appearance of flour, but not the quality, and are put into it to cheapen it, and certainly are very wholesome. I may, perhaps, add here that I do not ever put anything into my flour to adulterate it, but to make it better. Barley is mixed with wheat in some districts to cheapen the price. In other districts wheat is mixed with barley to improve the quality, particularly in Northamptonshire. The poor people consider barley flour more nutritious than wheat flour. I do not know that that is the case. I am doubtful of the point; but that is the universal opinion of the poor people. Bakers use a small portion of potatoes to give softness to the loaf, and to increase its size and moisture.

3441. *Chairman.*] You have no particular cognisance yourself of the practice of the baking trade?—No; no further than I converse with the bakers to ascertain what sort of flour they prefer, and endeavour to make it so as to enable them to sell bread of a good quality.

3442. Then, in fact, the Committee understand you to improve your flour to the taste and demand of the bakers?—Exactly so.

3443. Do you put potatoes?—I never put potatoes; the bakers use them.

3444. You put beans and barley sometimes?—When I send flour into Northamptonshire I mix wheat with barley, not barley with wheat.

3445. You mean the main quantity is barley?—Yes; they want to improve the quality, and therefore we mix it.

3446. Mr. *Peacocke.*] That is the particular fancy of the Northamptonshire people?—No; in dear times they must eat barley; they cannot afford to buy wheat.

3447. *Chairman.*] What is the article generally called?—Barley.

3448. You improve barley with wheat?—Yes.

3449. Mr. *Moffatt.*] You adulterate the wheat by mixing barley with it?—Yes.

3450. By mixing a superior article?—Yes.

3451. Mr. *Peacocke.*] Does the baker sell it as barley bread?—The bakers sell the flour, and the poor people manufacture the flour into bread themselves generally.

3452. They actually prefer it; the demand is for barley bread?—Yes. I understand in some districts they mix the wheat with the barley to cheapen it; that is another side of the question. I may add, as a rule, it is generally admitted that mixed flour is the most wholesome; that beans mixed with oats for horses are considered very nutritious and not deleterious. I may add that one of my Huntingdon customers prided himself for many years on not using any mixture in his bread, and he lost nearly all his business; his bread was genuine. I may perhaps be allowed just to say, why should not people mix barley, beans, or wheat, to give the poor man good, wholesome, or cheap bread? Is it not desirable? Why should the working man be forced to eat dear bread when he can have a cheaper and better quality?

3453. *Chairman.*] If you wish to produce a finer appearance in the flour and to make it appear whiter, what process do you pursue in order to give it the appearance of whiteness which it has not in the ordinary process of grinding?—I put one part in 60 of beans.

3454. Is that for the colour?—That is for the strength, that it may ferment more in making it into dough.

3455. Confine yourself for the present moment to colour; a great deal of evidence has been before this Committee that the public judge much by the colour, and it has been alleged that a certain portion of admixture is useful.

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You say you do not adulterate, you make things better; if it is for the production of a better colour, what do you do in order to produce a better colour in the event of its being ground?—I do not use anything to improve the colour; I have used peas, but the customers do not like it. If I was going to send flour to Manchester, and peas were cheap, I should use peas to give it colour, but I never have done it; not once in 10 years.

3456. Have you heard of any one using chemical agents and other matters of a totally different character; not of a cereal kind at all?—I should say never; I should say, I have understood that people sometimes mix alum with the flour when it was more strictly prohibited by mayors of towns, but not recently.

3457. Mr. *Otway.*] Are the Committee to understand you, that they mixed more alum when it was more strictly prohibited than they do now?—Yes.

3458. Is alum more strictly prohibited now than formerly?—No; the public yield to it; it cannot be dispensed with.

3459. Do the Committee understand you that alum is less strictly prohibited now than at any other time?—The law has become obselete.

3460. Mr. *Wise.*] You say the law has become obsolete; has it become obsolete in this case; you have sold flour mixed with peas and beans and other grain as wheaten flour?—I never mix, only with beans perhaps once or twice in my life I may; I have sold it as mixed flour.

3461. Have the bakers who used your flour sold their bread as mixed bread, and complied with the Act of Parliament by making a large M upon their loaves?—I should say not.

3462. Do you think that the public, if they knew that their loaves were mixed with pea or bean meal, or with barley meal, would purchase those loaves?—Yes; my customers in the neighbourhood where I reside know that I use beans; everybody knows it with whom I do business.

3463. *Chairman.*] What is the difference of price between wheaten meal and barley meal?—Barley meal is worth now about 17 *d.* per stone, and the cheapest flour is worth 2 *s.* 3 *d.*

3464. Do you make any difference in the price you charge in consideration of the different qualities of that which cost 17 *d.* per stone and that which cost 27 *d.*?—I never mix barley with wheat.

3465. Or wheat with barley?—I have not done that for 20 or 30 years; I do not like the trade; I grind for the London market, and it is beans that I mix.

3466. You state that foreign wheat is better than English, therefore I presume you would mix it with foreign wheat to give it a better appearance?—Yes; I have bought foreign wheat and taken it 60 miles into the country, and mixed it with the English wheat, and I can get from 1 *s.* to 2 *s.* per sack more for it.

3467. What effect has that mixture to the eye?—There is no difference.

3468. It is not in the fineness of the flour or the colour that the advantage is gained?—No, not in my case.

3469. You do not know in the trade of any process which is used, as you have given so much evidence about bakers, in order to make the flour absorb more moisture?—No, it is not generally in use.

3470. Mr. *Wise.*] Have you never heard that rice flour is mixed with wheaten flour?—Yes; I sometimes mix rice myself when it is cheap.

3471. Does not rice, though itself a wholesome article, absorb a great quantity of water?—Yes, rice absorbs a large quantity of water.

3472. Therefore any baker who uses rice flour mixed with wheaten flour, has a very great advantage in that absorption?—I should think not great, because the bread is baked to one consistency; whenever we use it, it is to cheapen it, but it makes the bread eat softer and has the same effect as potatoes; we are obliged to consult the public taste, and if I use rice I use it in the same proportion as beans, and never more.

3473. Mr. *Swift.*] You said just now that alum could not be dispensed with?—No.

3474. Why?—It improves the colour of the bread and makes the loaves higher.

3475. Mr. *Wise.*] Has not alum another very important quality; is not alum used to impart to flour of second and third-rate quality the whiteness only to be obtained from the very first-class wheat?—Alum improves the colour of all wheat;

wheat; if I have white wheat it improves the colour, and if I have brown wheat it improves it very much.

3476. So that the flour of third-class and very bad wheat might be mixed with alum and sold as the flour of first-rate wheat?—Yes; but the smaller the wheat, or what some people call the lowest wheat, the more nutritious it is.

3477. Mr. *Peacocke.*] You have spoken of foreign wheat; let the Committee understand what you mean by foreign wheat; where does the foreign wheat come from?—From the Baltic and the Black Sea.

3478. Do you import American wheat?—Yes.

3479. Do you believe the wheat imported from the Mediterranean, or the Baltic, or America is all of a very superior quality to the English wheat?—It is almost always.

3480. That is the characteristic of all foreign wheat?—Yes; that is the reason why we use beans.

3481. Do you know the Essex white wheat?—Yes.

3482. Is not that rather superior to foreign wheat?—No, the best white wheat I have ever seen came from America, and I ground it.

3483. But taking the ordinary run of wheat, is not the Essex white wheat of a superior description to the general quality of foreign wheat?—Yes.

3484. Does not Essex white wheat command a higher price in our market even than foreign white wheat?—I think not; I am not certain.

3485. Do you ever make use of Essex white wheat to mix with your inferior kinds, to give it colour?—Never.

3486. Why not?—It is so expensive to bring it down into my neighbourhood; I use our own country wheats, and never use foreign if I can help it; I have used foreign only one year out of the 30 that I have been in business.

3487. You say you do not use foreign wheat because it is so expensive?—I do not buy the best foreign wheats; we buy for strength, to make the quality bright.

3488. You have given as a reason why foreign wheat has more gluten in it, that it is the produce of alluvial and virgin soil?—Yes.

3489. You also say that you are particularly acquainted with the wheat of the Isle of Ely?—Yes.

3490. Has not there been a considerable quantity of land recently reclaimed in the Isle of Ely?—Yes.

3491. Do you find a superior quality of wheat grown on that recently reclaimed land?—Beyond all doubt.

3492. Do not you think that the Isle of Ely wheat will compete with the foreign wheat?—The wheat that is grown by a bad farmer who produces a small quantity per acre, is equal to foreign wheat, and wheat from land on which wheat has not been grown is equal to foreign wheat.

3493. Would not wheat produced under a good system of farming in the Isle of Ely, on recently reclaimed land, be able to compete and more than compete with the foreign wheat?—The larger the quantity of wheat that is produced per acre the less value the wheat is necessarily.

3494. Where there is a good system of farming in the Isle of Ely, on recently reclaimed land, is not the wheat as good as foreign wheat?—It is as nutritious.

3495. And contains as much gluten?—Yes.

3496. Mr. *Wise.*] You said that you considered that the foreign wheat was the best. Is this your theory, that the purest wheat contains the least nourishment?—What I wish to imply is this; if an acre of land, taking perhaps the extreme, produces 60 bushels of wheat, and another acre produces 20 bushels, although there is a much larger quantity of human food upon the acre which produces 60 bushels, yet in each bushel there will not be so much gluten.

3497. Do you maintain that the purest wheat has the least gluten and the least starch?—What I mean to say is, that the purest flour is the most unwholesome.

3498. Mr. *Otway.*] Why is the purest flour the most unwholesome?—The reason is this, that the purest flour has the least quantity of husk in it; the more free the flour is from the outer husk of the berry the more unwholesome it is; the husk assists in digestion; you will observe that doctors recommend brown bread for weak stomachs; if you have flour perfectly pure it is more astringent.

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3499. Mr. *Wise.*] Can you inform the Committee how many pounds of flour there are in a sack?—Two hundred and eighty.

3500. How many loaves are generally made from it?—From my flour the bakers make, on the average, 94, some 90, and some 96.

3501. Are you aware of the per-centage of moisture in bread?—No, I am not.

3502. Are you not aware that there is from 33 to 35 per cent.?—No.

3503. When you mix rice with flour it absorbs a great deal more moisture than wheaten flour; what effect would that have upon the poor man's loaf?—It would make it, I should say, of less value; I do not think it would make it of less value on account of absorbing the water; I think it is what the bread itself contains; the loaf would not contain any more moisture when baked.

3504. If flour naturally contains from 33 to 35 per cent. of moisture, and flour can be made which would contain 45 or 50 per cent. of moisture, would not that affect very much the character of the loaf which the public buy?—I think that the bread, when baked, will contain no more moisture in the one case than in the other.

3505. Have you made the experiment?—No.

3506. Mr. *Peacocke.*] You do not come here to give practical evidence upon baking?—No; living in the country, and the London millers having such a decided advantage over us in the use of foreign wheat, I wish to state, if we are prevented from using beans, it will have a great tendency to destroy my trade.

3507. You want to make out that the foreign wheat is very superior to the English?—Yes, it is; there is no question about it.

3508. Mr. *Otway.*] Do you mix beans and rice with your flour for the purpose of profit?—No, for quality. I use beans when I sustain a loss.

3509. Are the Committee to understand by your remarks, that you are here to give evidence for the purpose of protecting the country millers in the position in which they stand as regards the London millers; that the London millers have advantages over you, so that you are compelled to mix the articles you have mentioned with the wheat, in order that you may compete with the London millers?—To make my flour assimilate to the quality of theirs; my object in using beans is not the extra profit which I get by selling the beans for wheaten flour, but to make the quality of my flour assimilate to that of the London millers, because it does sometimes happen that bean flour costs me more than wheaten flour, still I am compelled to use it.

3510. Mr. *Peacocke.*] What is the price of bean flour?—It varies very much according to the season; generally speaking, it is much cheaper than wheat flour.

3511. What is the average price of bean flour?—I never sell bean flour.

3512. You have bought it, have you not?—Beans are worth about 50*s.* a quarter, and wheat is worth 72*s.*; what I wish to impress upon the Committee is the advantage I derive from making my flour assimilate in quality with the London flour.

3513. Mr. *Otway.*] Do you mean the advantage that you derive, or that the public derive?—The public.

3514. Do you mean that your flour is better than any flour the London millers supply?—No; the London flour is better than mine, but mixing beans makes mine come nearer the quality.

3515. *Chairman.*] Do not you mean to say, if you did not use rice or beans, you would not obtain the same price for your flour that you are enabled to do in the London market, owing to the mixture?—Precisely.

3516. Is not the advantage more to yourself than the public, because they might mix as much bean flour and rice as they liked?—Yes; it enables me to keep a trade when I otherwise might lose it. If I was going to sell bean flour for wheat, I should mix a large quantity. If I mix more than one part in 40 it spoils my flour; it makes a brown streak at the bottom of the loaf.

3517. You are convinced that in this admixture of yours there is nothing but what is wholesome and what the public desire?—Certainly; the public would not like peas mixed with the flour, but nobody objects to pea soup.

3518. Mr. *Peacocke.*] You state that you cannot compete with the London millers in the London market, on account of the facility with which they obtain foreign wheat?—Exactly.

3519. And for the purpose of meeting that difficulty you mix bean flour with wheaten flour?—Yes.

3520. The same advantage that they enjoy in the possession of the London market, you possess in the enjoyment of the country market?—Yes.

3521. Mr. *Wise.*] I understood you to say, that it was notorious in your immediate neighbourhood that you sold mixed flour?—Yes, and in London too.

3522. You do not profess to sell pure wheaten flour?—No.

3523. Mr. *Otway.*] Recurring to the former part of your evidence, are the Committee to understand that the prohibition against this admixture, to use a mild phrase, is less enforced now than it was formerly. Has your attention been called to several convictions that have appeared lately in the newspapers?—Yes.

3524. Upon what grounds do you say that the prohibition is less strictly enforced now than it was formerly?—We had not heard of any convictions for years, not for mixing beans with flour; it has lately sprung up, which drew my attention to the fact.

3525. At this moment you conceive that it is not less enforced than it was formerly?—Just the last three weeks or a month.

3526. Do you think the sitting of this Committee has had any influence?—I do not know.

Mr. *Thomas Karr Callard*, called in; and Examined.

3527. *Chairman.*] ARE you a Baker?—Yes.

3528. What is the subject you would wish first to give information upon?—The use of alum.

3529. Can you refer to a particular witness whose allegations you wish to disprove?—It is Mr. Thompson's evidence; in the "Times" of March the 16th his words are these, "Alum was used in Belgium and Paris, and he did not think there was any bread to be obtained in London which did not contain it, except it was made privately."

3530. What is the remark you wish to make upon that evidence?—I as a baker in London have to state that such is not the case; I have been in business now 10½ years, and, after the first two or three weeks (that is, after the business was completely under my own management), I never used a particle of alum in the manufacture of my bread.

3531. Mr. *Swift.*] Where do you reside?—At 4, Blenheim-terrace, St. John's Wood; what I wish to state further is, that I am not peculiar in this respect; that there are a vast number of bakers in London who do not use alum, and never did; and I have in my possession now 43 letters from bakers, in London and its vicinity, who are prepared to state, on oath if required, that they do not use alum; some of them have done so perhaps 20 years ago, but most of them never used it; I have reason to believe that that is a very small proportion. (*The Witness handed in a number of letters.*)

3532. *Chairman.*] We are not to assume that all those who have not written use alum?—No.

3533. Mr. *Moffatt.*] Those are from bakers in various parts of the metropolis?—Yes, and in the suburbs.

3534. The rich neighbourhoods and the poorer ones?—Yes.

3535. Mr. *Swift.*] Are they all what are called high-price bakers?—I think they are, but I am not sure of that; some of them I do not know; I do not come here to deny that alum is used in the manufacture of bread; it is, I believe, extensively used, but merely to correct the impression about its universal use.

3536. Mr. *Otway.*] It is generally used, you say?—It is used by the larger proportion.

3537. *Chairman.*] Might it not be the case, from the habit of persons who sell the flour to the bakers of improving the appearance of it by the admixture of alum, that many persons might be using it without being acquainted with the fact that they have alum in the flour of which they make their bread?—That may be the case; the general impression is that the baker puts it in.

3538. Some of the evidence was that the bakers obtained it in the flour they bought?—That may be the case; but I am speaking on behalf of bakers.

3539. Mr. *Swift.*] Could you distinguish yourself any flour that you purchased of your miller if there was alum in it?—No, I could not.

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3540. *Chairman.*] In your business as a baker it must be essential to obtain an accurate knowledge of the qualities of flour; have you any process by which you ascertain whether the appearance of whiteness is fictitiously communicated by chemical agents, or is the result of the fineness of the flour?—We have none; we never suppose the flour we use to be adulterated.

3541. The Committee have had before them gentlemen who stated that they did not see any harm in using alum, because it improved the article generally, and improved its appearance, which was a benefit to the public; that being the case, may you not have been the victim of this system without being aware of it?—I may have been, but it is my impression I have not been. I do not think it is by any means the custom, especially with those who sell the best flour.

3542. Take Mr. Lewis Thompson's evidence; he states with respect to bread, "I have within the last eight months examined bread obtained at 78 different shops;" then he goes on to say what proportion of them had alum; he does not say the bakers put it in; he says the product contains it?—I understand him to mean that the baker puts it in. He says, "To a certain extent the addition of alum was beneficial, although he could imagine cases in which it might be otherwise. He did not think there would be any objection to a baker putting up in his shop white bread mixed with alum; the custom was well known, and he did not think there was any fraud in it."

3543. I asked him that question, whether he thought that the public would buy such bread if he put it up on a board that he did mix alum, and he acknowledged that he did not think they would?—The reference here is to bakers.

3544. Mr. *Moffatt.*] Did you ever hear of a miller selling flour adulterated with alum?—Not in London.

3545. You never heard of a single instance of a miller selling flour adulterated with alum?—No.

3546. In the country, have you?—Only what has come out of late.

3547. As a tradesman long engaged in the purchase of flour, have you ever heard of a miller selling flour mixed with alum?—No; except the charges made in the "Lancet," which are all recent.

3548. Not in your own experience as a trader?—No.

3549. Mr. *Wise.*] What is the article called bakers' stuff?—That is ground alum, mixed, I believe, with salt.

3550. Is not a good deal of salt used by bakers always?—Yes.

3551. What quantity is used to a sack?—We use about eight ounces to a bushel, which would be about 2 ½ lbs. or 3 lbs. a sack of flour.

3552. Is that what is called bakers' stuff?—No, that is salt.

3553. And what is called bakers' stuff is a legitimate mixture?—No.

3554. Mr. *Moffatt.*] Is salt a legitimate mixture?—Yes, it is allowed by Act of Parliament.

3555. Mr. *Wise.*] Could you suggest any remedy more efficient than the present law, by which we could prevent the use of alum in bread?—No, I am not prepared to suggest it.

3556. You think it is a very great injury to an honest tradesman, do you not, that a baker should mix alum with very inferior flour, and make inferior flour appear as if it were made with the best wheat?—It is a great injury if we are not able to compete in price. A baker who uses very inferior flour consequently sells very much cheaper; by the use of a certain quantity of alum he can make his bread look quite as good as ours, which is made from better flour and dearer flour. Consequently, such bread is often 1 *d.* or 1 ½ *d.*, sometimes even 2 *d.* cheaper than other bread. It looks quite as good, and our customers are very often much dissatisfied, and think they are imposed upon by us.

3557. Do you not think the working classes are very much injured by their love of what is called beautiful white bread?—I think it likely, because flour is at any time astringent, and medical men recommend the occasional use of brown bread to correct it; but if an article like alum, which is very astringent, is added to it, I think the constant use of it must be very injurious.

3558. Are you of the same opinion as the last witness, that the best wheat makes the least nourishing bread?—I do not think he rightly explained himself. I do not think he meant best wheat; he meant the wheat finely dressed.

3559. *Chairman.*] He said the purest wheat was the most unwholesome?—I cannot

cannot understand that; I can understand this, if that was what he meant, that the finest dressed wheat was the most unwholesome.

3560. He explained that it had less of bran and gluten?—If it had all the bran, I should consider it pure.

3561. Mr. *Moffatt.*] The letters you have put in appear to have been written in consequence of some public meeting convened by advertisement?—We put an advertisement in the "Times;" one advertisement in the "Times" brought all those letters, with one exception.

3562. What was the purport of that advertisement?—In consequence of an impression being left upon the public mind by the evidence given before this Committee, that the use of alum in the manufacture of bread in London was universal, it was the desire of a few bakers who did not use it to correct that impression, and they would be glad for the bakers in London and the suburbs to write to that effect to a certain party named at the bottom. It was particularly requested that no one would reply unless they were prepared to verify their statement upon oath if it should be required, so that every precaution was taken that no one should write who was not acting *bonâ fide.*

3563. The consequence of that advertisement was, that you received communications from various parties with their names and addresses, stating that they did not use alum in their bread?—Yes; and also stating that they would verify their statement upon oath if required.

3564. Mr. *Otway.*] Do those 40 writers of those letters now maintain that they use no alum?—Yes.

3565. Did a considerable portion of them admit having used alum for some time?—The greater part of them had never used it; some state that they had not used it for, one says 10 years, one says 20, one 30, and one 40 years.

3566. Mr. *Moffatt.*] And one three years?—Yes; there is only one so recent as that.

3567. Mr. *Otway.*] Have you any idea how many bakers there are in London —Perhaps 2,000 or 3,000; there may be more.

3568. *Chairman.*] These are the only answers you have received; 40 out of 2,000 or 3,000 bakers, who allege that they do not now use alum?—That is all; but you must take all circumstances into consideration.

3569. Mr. *Moffatt.*] Have you any knowledge of how many bakers read the advertisement?—No; I suppose not one out of ten would see it; you know, yourself, how the "Times" paper is; you may take it up a hundred times, and not look through all the advertisements.

3570. Mr. *Otway.*] With how many of those bakers are you personally acquainted?—I should think perhaps 10 or 12; I am not prepared to answer that question; I know a great many more who do not use alum.

3571. Mr. *Wise.*] Have you read all those letters you have delivered in? —Yes.

3572. Can you state to the Committee the wishes and desires that are expressed by the writers of those letters in reference to the proceedings of this Committee?—Yes, the wishes expressed in some of the letters, but not in all; besides which I know the wish of a large portion of the trade; and it is, that something should be done to prevent the use of alum, and anything else that is injurious.

3573. *Chairman.*] Are you able to suggest a remedy for carrying out those wishes with regard to the use of alum?—That is rather a difficulty. There are two things which we would wish to impress upon this Committee: one is, that whilst we would be glad to have adulterations checked, we are particularly anxious that all improvements in the trade should not at the same time be checked; for as the Act of Parliament now stands, the baker who makes bread which by many medical men is supposed to be more wholesome than the ordinary fermented bread (I refer to unfermented bread), for so doing subjects himself to fine and imprisonment.

3574. Mr. *Wise.*] Is that the 3d & 4th George 4, the Metropolitan Act?— Yes; from an anxiety to prevent adulteration it states what may be used, and prohibits everything else. Now carbonate of soda and muriatic acid, by which the unfermented bread is raised, not being named, subjects the bakers using them to the penalties of the law; there yet may be many other improvements introduced (for we do not mean to stand still in the baking trade any more than in any other trade) in the manufacture of bread, and we do not wish to be shut

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out from making such improvements; and I am sure this Committee do not wish it either.

3575. What do you call improvements?—It is supposed by many that raising the bread by soda and muriatic acid instead of yeast is an improvement; I am not prepared to say whether it is or not; if you take that as an illustration, that is supposed to be an improvement, and by Act of Parliament it is prohibited.

3576. Your observations do not allude to the mixture of beans and rice, and things of that sort, to make a more attractive and saleable flour?—No.

3577. But improvements in the art of making bread rise nicely?—Yes; though I am not prepared to say that some substances may not be discovered that may not be an improvement there.

3578. You are aware under the Act of Parliament that the bakers have very great discretion, and there is no limit in fact to their ingenuity in mixtures, provided they sell their loaf marked with an M, as mixed?—If I may be allowed to venture a thought that has occurred to myself, I would like to ask this Committee how far that would be considered as adulteration. Rice, it has been stated, has been used in order to absorb more water, which is consequently a saving to the baker; but it has occurred to me, that if rice has that property it might be used after harvest, say three or four months after harvest; we cannot use the new flour alone, we are obliged to mix it with the flour of the growth of the year before. It seems to me very probable that if a small proportion of rice, if it has that property it is said to have, was mixed with that flour, perhaps about one-half per cent., that it would absorb the moisture that is in new wheat, and might make it fit to use at once, instead of having to wait until it gets four or five months old; I cannot say it would be so; I think it is not improbable that it might be so.

3579. From your experience, do you think it would be impossible to bake a loaf of half wheaten flour and half rice flour?—I think not, I do not know; I have no experience in that matter. You ask me what I called improvements. I am at a loss to say what improvements there may be, but it occurred to me there might be some improvements of that kind.

3580. You mean 1-6th or 1-10th of rice flour would be more probably nearer the proportion than one-half?—No. I did not say a half, but a half per cent.; if it were used in the proportion that is now spoken about, it would not be for the purpose of profit at all (it must be evident it could not be), it would be merely for saving time, instead of having to keep the flour until so many months old. It would be fit to use at once. I only say this in reply to the question what improvements I think might be made; it is possible that such an improvement might be made. Then what we wish is, that while you stop adulteration, you do not put a check upon all improvements.

3581. Could those improvements you suggest be carried out by the miller or the baker. If you use rice flour with wheaten flour, must they not be ground together?—No, it is not so now; bakers use rice.

3582. They can mix it themselves in large quantities?—Those bakers who do use it; but I do not think there are many that do.

3583. Would you knowingly buy wheaten flour mixed with beans or rice?—No.

3584. Do you think it improves the quality of bread?—No.

3585. Mr. *Kinnaird.*] Should you consider it a fraud so to do?—I should, because where it is used at all it is in large quantities. I have known of its being used to the amount of 8 lbs. in a sack, and used in that proportion I should say it was a fraud, but if such an improvement could be introduced (I do not know that it could) as using of one-half per cent., in order to save time, that the wheat might be used at once instead of requiring to be mixed with old wheat, I should not consider that a fraud. But then it would be necessary that the baker should get some permission so to use it, lest he should be charged with fraud.

3586. Do you consider the bread made from new wheat immediately, as wholesome to the consumer as that made from old wheat?—I dare say it is, but it is rough and unsightly.

3587. Mr. *Wise.*] You are aware there is no illegality in selling bread now mixed with rice, provided it be sold as such; rice is one of the articles mentioned in the Act of Parliament as permissible, but it must be sold as such?—Yes; but would the proportion of one-half per cent. require a mark. With regard

to

to potatoes, I wish to make a remark; it is supposed that potatoes are used by bakers as an adulteration.

3588. Mr. *Kinnaird.*] Potatoe flour?—No, potatoes themselves; perhaps I may be allowed to read from the "Times," to show how the impression is confirmed: "The reports of the 'Lancet' first drew attention to the subject, and since then the minds of the most careless readers have been held in continual attention by the disclosures which have been made before the Parliamentary Committee. Let us confine ourselves for the moment to the one subject of bread; a few years back we heard nothing but the 'big loaf' and 'little loaf.' It was no doubt desirable to procure as large a loaf as possible for our money, but surely the case of the 'sound loaf,' as against the 'unsound loaf,' merits as attentive a consideration. It appears to be as well established as any fact well can be, that the loaf which is ordinarily purchased by the London consumer is mixed up with ingredients which should not of right enter into its composition. In some cases lime and ground bones have been detected in the composition which is by courtesy called bread; more usually the articles which are employed to depreciate the quality of the loaf are potatoes and alum; the potatoes give weight, the alum colour." In order to prove that potatoes are not used by the bakers as an adulteration, I would refer you to the relative price of potatoes and flour, to show how little would be gained by the baker, which will be the best proof that he does not use it for that purpose. The price of the best flour, the highest price, is 65 *s.* a sack, or 2¾ *d.* a lb.; the price of the best potatoes would not be less than ¾ *d.* a lb.; now, quite one-fifth of that is waste. It is not passed through the strainer, which will bring up the price of what is used to 1 *d.* a lb. And then it is to be remembered that flour will make about one-third more bread than its own weight, owing to the water it absorbs, but potatoes not doing so will make the actual difference between the price of the potatoe and the price of flour, at the most, 1¼ *d.* a lb. Now, the quantity of potatoe used by myself is 15 lbs. to a 12 bushel batch, from which 3 lbs. has to be deducted for waste, leaving 12 lbs. of potatoes; the weight of bread in 12 bushels is 768 lbs., so that there are 12 lbs. of potatoes in 768 lbs. of bread, or about one and a half per cent. Now the value of that bread is 7*l.* 17*s.* 10*d.*, and the saving effected would be 1*s.* 3*d.* I would leave it to the Committee to decide whether it is probable that a tradesman would depreciate property worth 7*l.* 17*s.* 10*d.* in order to save 1*s.* 3*d.*

3589. *Chairman.*] You are proceeding upon the assumption that no one uses more than you do?—I believe that is the case; that is about the quantity used by the bakers.

3590. On the other hand, supposing a person used four times as much as that, the profit would be considerably increased?—They do not do so.

3591. Mr. *Wise.*] Would there not, independently of price, be an important sanitary consideration. From the use of the potatoe is there not much less nutriment and gluten in the bread?—One and a half per cent. would not amount to much.

3592. The nutriment would be of a different character?—I believe that the bread is better made from potatoes; I am now taking flour at its present high price of 65 *s.*, but the more ordinary price is 45 *s.*, and then the saving would be 3 *d.* upon that quantity, and 1½ *d.* upon a sack of flour; when it is less than 45 *s.* it is an absolute loss; but the baker uses as much potatoe then as he does if flour is 80 *s.* a sack; this shows that the baker does not use it for the purpose of profit.

3593. *Chairman.*] You are giving evidence to refute what was not intended by the witness?—I am not referring to any evidence; I am referring to the general impression upon the public mind, which is strengthened by this statement in the "Times."

3594. What do you conceive would be the best remedy for the evil that you are obliged to submit to now, you acting honestly, not using alum, and having to compete with those who do make use of alum?—I have not come here prepared to suggest any remedy, but rather to show the difficulty that lies in the way. Perhaps if I pointed these difficulties out, the remedy would suggest itself to the Committee. It is this, that analytical chemists who have given their opinion upon the subject of alum being used in bread have so differed that we should be afraid to have it left with any one analytical chemist, however eminent

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he might be, to decide the point whether our bread contains alum or not. I say this out of no disrespect to any analytical chemist, but the reputation of a baker is too precious for him to lose unless there is indubitable proof of fraud. The chemical analysis has been very unsatisfactory with regard to our trade, for there has been scarcely a point raised on which analytical chemists have not expressed opinions diametrically opposite to each other. Mr. Thompson, before this Committee, has stated that alum could not exist in the form of crystals after baking; whilst Dr. Challis and Dr. Carpenter have both stated that it could be found, and they themselves had found it in crystals. Again, it has been stated that alum applied to flour will enable it to absorb more water, and by doing so, besides the adulteration, would be an additional fraud upon the public; whilst Mr. Thompson says, that chemically speaking, the addition of alum would not cause the bread to absorb a larger quantity of water. Again, Mr. Thompson, after the examination of 78 samples of bread, comes to the conclusion that bread is not to be obtained in London without adulteration with alum, unless it is privately made. Dr. Normandy, in his book upon chemical analysis, mentions but one exception, which is Mr. Gilbertson, in Judd-street. Dr. Hassall, in April 1851, examined 24 samples of bread, and the samples seem to be all adulterated with alum. In October he repeated the operation on 25 samples more, and pronounced these also to be adulterated with alum; whilst Dr. Taylor, on the other hand, states that in the specimens of bread which he had examined, he had not met with any adulteration with alum. Besides which you have had upwards of 40 letters from persons who declare that they do not use alum in the manufacture of bread.

3595. *Chairman.*] Several of them express their knowledge that it is done, and rather invite some process to prevent it in future?—Yes.

3596. Mr. *Otway.*] Does your experience, as a baker, go to this effect: that alum is not extensively used in the adulteration of bread in London?—It is extensively used, and we wish it stopped. What we are anxious about is this: if it is left to analytical chemists to decide whether my bread contains alum or not, seeing that analytical chemists have so differed, they may pronounce bread to contain alum when it does not.

3597. *Chairman.*] Would not that be met by the existence of an appeal?—Yes.

3598. Mr. *Otway.*] That would be a question of the competency of the Board, supposing such a Board to be established?—Yes.

3599. *Chairman.*] There might be an appeal?—It would be necessary that there should be some appeal. There is a gentleman present here to-day who could give evidence upon that point; he has actually put alum in order to test it in a loaf of bread, and sent it with another loaf perfectly pure to an analytical chemist of some standing and well known, who pronounced both loaves to be pure; and if such mistakes can be made the innocent may suffer with the guilty. There is another party who has been very much injured by a similar mistake. Dr. Hassall, before he examined the breads in 1851, examined 44 samples of flour, and he states that "in no instance was the presence of foreign matter of any kind detected." The question was asked me whether we supposed the flour to be adulterated in London; and this shows, if this is correct, that it is not; for out of 44 samples he did not detect the presence of foreign matter of any kind. After the examination of 24 samples of bread, and again of 25, three of the parties come forward and declare that they have not used alum, and that they desire further investigation; the flours that they used are then sent to the same party to be examined. I refer to Dr. Hassall and to what appeared in the "Lancet;" the three parties come forward and declare that their bread had not been adulterated with alum by themselves, and then eight samples of that flour are sent to Dr. Hassall from the three bakers, and upon the second examination Dr. Hassall answers that half of them are adulterated. That four out eight are adulterated. In the first examination, out of 44 not one is adulterated. In the second examination, out of eight samples four are adulterated.

3600. *Chairman.*] From whom are you deriving those facts?—I take them from the "Lancet."

3601. Does Dr. Hassall admit his own inaccuracy?—No, it has never been admitted that he has been inaccurate, and one of those three persons, when his flour was said to be adulterated, took a sample of that flour to the Polytechnic Institution,

Institution, and Professor Pepper examined it, and gave him a certificate to the effect that there was neither alum nor even alumina in the flour. Mr. *T. K. Callard.*

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3602. In fact, your main difficulty is the contrariety of opinion which exists among chemists of equal eminence?—Yes; in consequence of which, whilst we are very anxious that adulteration should be stopped, it would be a still greater evil that it should be pronounced that I adulterate my bread when I am innocent. I had better be at the disadvantage of being unable to compete with those who do adulterate than be in danger of being charged with so doing.

3603. You do not see that by some process of appeal there would be any difficulty in meeting that objection in this way?—It might be a safeguard if when a loaf of bread is sent for to my shop, that the party before he takes it out of the shop shall state he is going to take it in order to analyse it; he shall allow me to take a portion of that loaf; it shall be sealed up, and also the portion which he takes; I shall put my seal, and shall not be allowed to open it until it comes to the hands of the analytical chemist; then if the analytical chemist who shall be appointed to decide shall state that it contains alum I shall send my portion of the loaf to some other analytical chemist that he may give his decision; that would be a safeguard.

3604. Have you any other suggestion to make to the Committee?—No.

Mr. *Alexander Robertson,* called in; and Examined.

Mr. *A. Robertson.*

3605. *Chairman.*] UPON what subject do you wish to give evidence?—There was a great hubbub at one time with reference to the adulteration of bread with alum; having met with Dr. Normandy, he was told that our bread was pure; it is better known by the name of Gilbertson's bread. Dr. Normandy stated that he could not conceive such a thing to be the fact, inasmuch as he had analysed some hundreds of samples of bread, and he never found any free from the adulteration with alum; I stated it was strictly possible that that might be the case, and yet not affect my bread. I challenged him to analyse our bread, which he said he would. I myself bought the alum, dissolved it in water, and worked it into the bread merely as an experiment, not for sale; I took it to Dr. Normandy, with a loaf made in the ordinary way at my establishment, and also a sample of the flour for his analysis; and I have a letter in my pocket which he returned to me, stating that both the loaves of bread and the samples in question were perfectly free from the adulteration of alum, being the only exception he had ever met with in London.

3606. Mr. *Moffatt.*] What proportion of alum was used in that bread which you mixed for analysis?—I cannot say whether it was one or two ounces in eight half-quartern loaves; that would be 16 lbs. of bread.

3607. *Chairman.*] You mixed the alum by first dissolving it and then mixing it up with the dough?—I took the sponge and mixed the alum with it, and made that sponge into bread which contained alum.

3608. Mr. *Moffatt.*] You are quite clear that you used one ounce of alum, and possibly two, to 16 lbs. of bread?—Yes.

3609. *Chairman.*] Are you acquainted with the practice of those who do mix alum with flour; do not they mix it in the powder?—I am not aware of how it is introduced; I am perfectly aware that it is introduced to a large extent.

3610. Do you know the quantity that is used?—It varies.

3611. You used a small quantity in the instance you have mentioned?—I should say not; it was a small quantity, but a large quantity in proportion.

3612. Did those two loaves which you sent to Dr. Normandy present the same sort of appearance to the eye?—No; one was considerably whiter; the bread which contained alum was considerably whiter. I should have known from its appearance that it was different to the ordinary way of baking at my establishment.

3613. Are you quite confident that Dr. Normandy examined both the loaves?—I should be sorry to say that he did; I only know that his report went that far.

3614. Mr. *Swift.*] Were those loaves made of the same flour?—Yes.

3615. Mr. *Moffatt.*] Were all the other ingredients the same, except that one of the loaves contained an ounce or two ounces of alum to 16 pounds of bread and the other not?—Exactly.

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3616. There was no difference in the process of making the bread?—None whatever; they were both made in the same baking. Dr. Normandy's letter I will read to the Committee: "28, Church-road, De Beauvoir-square, Kingsland-road, 16th March 1850. Dear Sir,—I have carefully examined the two loaves of bread, and the sample of flour which you left with me for the purpose of analysis, and I am happy to inform you that neither the loaves nor the flour in question contain alum. You are, therefore, one of the few bakers in London, if not altogether the only one, whose bread is free from this adulteration; for I have invariably found undeniable proofs of the presence of that substance in all the bread which I have hitherto analysed. I remain, dear Sir, yours respectfully, *A. Normandy.* Mr. Gilbertson, Judd-street."

3617. You are quite certain that there was no mistake, by exchanging the two loaves?—There is not the slightest shadow of a doubt as to the identity of the particular loaves.

3618. Mr. *Otway.*] You are sure that he examined them?—I am sure that he had them.

3619. Were you present when he examined them?—I was not; he states that he examined them.

3620. *Chairman.*] Did you ever communicate to him what you had done?—I never did; he charged me a guinea.

3621. Mr. *Swift.*] If alum was mixed by the miller of whom you purchased your flour prior to your having it, would you be able to distinguish the presence of alum in it?—I should merely do so by guess; I do not know that I should do so accurately; the bread would exhibit a different appearance without alum.

3622. What test would you apply?—I should judge from the appearance of the bread.

3623. Do you think you would be able to discover any quantity of alum mixed with a sack of flour from its appearance alone?—I do not; if I had been accustomed to make bread without alum I should notice a most considerable difference.

3624. Mr. *Moffatt.*] In point of fact, when you did mix alum with the bread which you sent to Dr. Normandy, you found the bread mixed with alum was whiter than that without alum?—Most considerably; any person could have told there was a difference.

3625. *Chairman.*] In your purchases of flour, you are anxious to see that the whiteness of the flour is not caused by alum?—I do not know; I think it is not a very necessary qualification for good bread that you should have white flour.

3626. Mr. *Moffatt.*] Did you ever hear of millers selling flour adulterated with alum?—I have heard of it.

3627. It has never come within your experience that you have bought flour from a miller in which you found alum to exist?—Never.

3628. *Chairman.*] Does not the price of flour somewhat depend upon its appearance with respect to whiteness?—I think not.

3629. You have other tests that you are guided by, and not by the whiteness?—There is a general appearance of superiority of quality; it is not always the whitest flour that will make the whitest loaf.

3630. Mr. *Swift.*] Do you examine every sack of flour that comes into your house?—No.

3631. Is it not quite possible that several sacks of a lot of flour might contain alum, without its coming under your supervision?—Such a thing is possible.

3632. Do not you think it is very probable?—I think it is very improbable.

3633. Why?—I think generally the flour contained in a load would be very likely to be manufactured at one time; and if one portion was adulterated with alum, the whole of it would be.

Mr. *Alexander Clapperton,* called in; and Examined.

Mr. *A. Clapperton.*

3634. *Chairman.*] WHAT is the subject upon which you wish to give information to the Committee?—To show the injustice that I suffered from the publication in the "Lancet," in 1851, relative to the analysis of 25 samples of bread that were purchased by Mr. Wakley.

3635. Mr. *Swift.*] Are you a baker?—Yes.

3636. In business?—I have been out of business about four months.

3637. Were you mentioned by name in the "Lancet"?—Yes; and the address was given, 11, Mortimer-street, Cavendish-square.

3638. Is that the address at which you were held up as having sold adulterated bread?—Yes; after that appeared in the "Lancet," I applied to Mr. Wakley, and took with me two gentlemen in the trade for a portion of that bread that he had analysed, to place it in the hands of some analytical chemist to satisfy myself whether there was alum in the bread. I had very great doubts whether there was, and Mr. Wakley refused that favour, but after stating the very great injury it would do to me in a class business, and my friends urging it upon him for some very considerable time, he at last consented that he would give up a portion of that bread for my friends to take to an analytical chemist, and a party was to be appointed on his behalf to accompany them and see the bread placed in the hands of the chemist. He appointed I think the next day for my friends and myself to wait there to have this bread, and in return for the bread I was to give up the samples of the different flours that that bread had been made from. I gave up the flour to Dr. Hassall, as I promised Mr. Wakley, but he declined giving me that sample of bread, and it was the opinion of my counsel that an action at law would be lost unless it was the very same bread that Dr. Hassall had analysed, as an action was then considered advisable on my part. When he refused to give me up the piece of bread I believe he stated something with respect to Dr. Hassall, that he had declined to give up the bread. I think that was the statement he made when I waited upon him for the piece of bread. Dr. Hassall called at my house, but I was not at home, and I received this letter from him: "26, Park-street, November 3d. Dr. Hassall is happy to inform Mr. Clapperton that he believes he shall be able fully to exonerate him from any knowledge of the presence of alum in the bread manufactured by him for the particulars of which D. W. refers Mr. Clapperton to the 'Lancet' of next Saturday. Mr. Clapperton, 11, Mortimer-street, Cavendish-square." It appears that Dr. Hassall had analysed the flour that I had promised to Mr. Wakley for the purpose of being exchanged for the bread, and he stated in the next publication of the "Lancet" that this flour also contained alum, as well as the bread, and as he declined to give me up the sample of bread I could do nothing. I was particularly desirous upon my part to find out whether the flour was adulterated or not. I placed a sample of the flour in the hands of Bachoffner, at the Polytechnic Institution, with instructions to be careful in analysing it.

3639. Mr. *Moffatt.*] Was that a sample of the same flour?—Yes. After they had made several examinations, they sent for me, and said, "Mr. Clapperton, we wish you to tell us if there is anything that this flour is supposed to contain. We have been very careful in examining the flour, and if there is anything you know that this flour is adulterated with, we wish you to tell us, and we will make a more careful examination." I stated that an action at law would be the result if that flour was pure. They made an examination of three pounds, which was a larger quantity than they had previously analysed, and they said there was not the presence of alum in it at all. As I stated before, the action would have been lost on account of Mr. Wakley not giving up the bread, as the bread which he had purchased at my shop, not having any knowledge that the bread would be required, was all consumed. By Mr. Wakley keeping it in his possession, he took good care that I should have no action against him; that is all I have to say.

3640. Was it before you had had any certificate of the flour being pure that Dr. Hassall declared it in a subsequent impression of the "Lancet" to be mixed with alum?—Yes.

3641. Have you a copy of that certificate?—Yes. "Polytechnic Chemical School. Mr. Clapperton. Sir,—This is to certify that having made a preliminary examination of a small quantity of the flour entrusted to me by you, I felt convinced that nothing decisive could be said unless several pounds weight were employed in the analysis. I have therefore operated in various ways with three pounds of the same flour, and beg to state most emphatically, that it does not contain alumina; therefore the flour may be regarded as perfectly free from any adulteration of alum. I am, sir, yours obediently, *M. Pepper.* 8th January 1852. I beg to certify to the above statement. *G. W. Bachoffner.*"

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3642. What quantity of flour did Dr. Hassall take to make the analysis?—There was a sufficient quantity, I think two quarterns at least; the quantity of flour given up to Dr. Hassall I think was sufficiently large for one experiment.

3643. Have you had any further communication from Dr. Hassall since that period?—No; I considered, not being able to get the sample of the bread, I had lost my clue altogether; I did not interfere any further.

3644. You felt yourself considerably aggrieved?—I have lost my business through it entirely.

3645. Your character was damaged, and your business was very much injured?—It was ruined altogether.

3646. By reason of that report in the "Lancet"?—Yes.

3647. And by reason of not being able to produce the same bread as that mentioned in the report, your counsel advised you that you had no remedy at law?—Yes.

3648. *Chairman.*] Did Dr. Hassall give you any explanation of why, after having stated that he could exonerate you, he published in the "Lancet" that the flour contained alum?—Mr. Wakley refused, when the time appointed to wait upon him came, to give me the bread, stating some objections that had been made, after a consultation with Dr. Hassall; that was the excuse they made, and I could not get it.

3649. You apprehend that it was in order to evade legal consequences?—I have not the slightest doubt of it.

3650. Mr. *Swift.*] Did you make any communication to Dr. Hassall after you received the certificate from Dr. Bachoffner, of the Polytechnic Institution, as to the quality of the flour?—After I found that my action was lost it was useless for me to do anything with them; my remedy was an action at law; having the advice of my friends and the trade at large, the counsel thought I should lose it; it was no use to trouble myself with Mr. Wakley; he met me several times, and he said, "You may depend upon it if the Englishman does not put alum in it the French miller does." That was all the remedy I could get.

3651. Mr. *Moffatt.*] That was no compensation for having your trade ruined?—It was not; there were many as well as myself that might be ruined; that was my case certainly.

3652. Mr. *Kinnaird.*] Are you aware of any other well authenticated case in which the public statements in the "Lancet" have proved to be inaccurate?—No; other people recommended me to carry it on, but I said it would be only throwing away my money as well as my trade.

3653. You have not heard of any similar case to your own?—One gentleman came forward as well as myself, but he withdrew; Davis & Son.

3654. As far as you know, yours was a solitary case of injustice?—Yes. I was the only first-class baker attacked at the time; in the neighbourhood, the position I stood in, supplying so many doctors and families, was very hazardous. Some gentlemen were very sorry to leave me; in consequence of the good opinion they had of me they continued for nine months and then left me.

3655. Mr. *Otway.*] You did not succeed in establishing the fact, that the allegation against you was ill-founded?—I could not, when they held every particle of bread upon which the action could be supported; on no other thing could I have supported the action but the piece of bread that Mr. Wakley had analysed; any bread that I took afterwards would not do; I should have been told, "You would not put alum in this bread, because you knew it was to be analysed." Therefore it was useless for me to try, unless Mr. Wakley would give up that piece of bread.

3656. Have you retired from business?—I have been obliged to retire.

3657. Mr. *Kinnaird.*] On account of the publication in the "Lancet"?—Decidedly; I was baking from 14 to 18 sacks of flour a week, according to the season, and it declined away to four.

3658. Mr. *Otway.*] Did you at any time use alum?—Never.

3659. At no period of your business?—Never.

3660. Mr. *Kinnaird.*] Did you ever use any other adulterating substance?—Nothing at all but the flour and potatoes; I wanted to satisfy myself upon that point; I should not have purchased any man's flour if it contained alum; that was my reason for placing the flour in the hands of Mr. Bachoffner at the Polytechnic Institution.

3661. Mr. *Swift.*] From your knowledge of the trade, could you have discovered

covered whether there was any alum in the flour?—It makes the bread part cleaner. Mr. *A. Clapperton.* 16 April 1856.

3662. Would you have been able to discover whether there was alum mixed with the flour?—No.

3663. Mr. *Otway.*] You might have been using alum for many years without knowing it?—Certainly, if it was in the flour.

3664. In fact, all the time that you supposed you were using no alum at all, you might have been using alum, and probably according to the evidence we have had, you were using alum?—That I cannot say.

3665. *Chairman.*] Dr. Hassall stated that he found alum in the flour?—Yes.

3666. He seemed to think that that exonerated you?—Yes: but it never did; it never took the mark off me.

3667. That was what his intention was; he meant to say that you had been imposed on by your flour-dealer, that you had not done it yourself?—No doubt he meant to exonerate me as far as lay in his power. This gentleman, who dealt with me nine months afterwards, told me that there was alum in the bread. His assistant had analysed it; it was from the fact of having seen it in the "Lancet" his suspicion was first excited. His cook said the next morning that there was alum in the bread; her master had seen it in the "Lancet." I took him every sort of bread I had, but I found he was so whimsical it was fruitless, and I gave it up. I knew very well I had from that day gone backwards, and could not help it.

Veneris, 25° die Aprilis, 1856.

MEMBERS PRESENT.

Mr. Scholefield.	Mr. Sheridan.
Viscount Goderich.	Mr. Kinnaird.
Lord Claud Hamilton.	Mr. Peacocke.
Viscount Ebrington.	Mr. Gregson.
Mr. Moffatt.	Mr. Otway.

WILLIAM SCHOLEFIELD, Esq., IN THE CHAIR.

Mr. *John Jackson,* called in; and Examined.

3668. *Chairman.*] YOU are a Miller, near Wakefield?—I am. Mr. *J. Jackson.* 25 April 1856.

3669. You know a good deal about the law which affects millers, with regard to adulteration?—Yes; I have had a specimen of it lately.

3670. You have yourself undergone a trial, I believe, having been charged with adulteration of flour?—I have.

3671. The Committee do not want you to go into any details connected with that trial beyond what may be necessary to show to the Committee what the present state of the law is, and how far it is effectual, and what are the remedies which you yourself would propose for making the law effectual and not oppressive. In stating what has taken place, therefore, you will of course be careful not to make charges against persons whom you think may have aggrieved you; the Committee believe they may take it for granted that the trial that you underwent was decided, after a very long investigation, in your favour?—It was.

3672. Your firm was proved not to have practised any of the adulterations with which it was charged?—Yes.

3673. Will you state to the Committee what are the proceedings in the first instance to which a miller is exposed when he is charged with adulteration of his flour; what are the first steps taken by persons in cases of suspicion?—I think

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in our case we were pounced upon in a moment, without the slightest knowledge by the Inspector of Nuisances, under the Nuisances Removal Act.

3674. The Inspector of Nuisances came to your premises?—Yes.

3675. What did he do?—He came into the place and asked what price they were selling such a sort of flour at; he looked in the bins, where it was exposed for sale, and my man told him the price; he said, "What quantity have you of this?" and we said, "We think about 4½ sacks;" he said, "I shall seize it."

3676. Under what authority did he profess to seize that flour?—He has professed all along to have seized it by his own mere motion, having no authority from his employers, the Corporation; he denied all through that he did it by order, but in virtue of his appointment as inspector under the Nuisances Removal Act.

3677. Does the Nuisances Removal Act give power of seizing flour which is believed to be adulterated?—Yes.

3678. You do not know the Act?—I am not very well informed upon that; there appears to be a good deal of difference of opinion whether he ought not to have a written order to summons for penalties.

3679. Do you know the nature of the special Act of Parliament with regard to the adulteration of flour?—Yes.

3680. What are the provisions of that Act?—It appears they have the power to come and examine, and after that seize the whole.

3681. Who has power?—The chief constable, in a case in my neighbourhood, after getting a search warrant, has done it, and he got it analysed, and then confiscated the whole bulk; we had a seizure in our immediate neighbourhood of 317 sacks of flour at one time, but it was not all taken; 300 were given back, 17 sacks retained, and a fine of about 50 *l.* inflicted.

3682. After the flour was seized, what was the next process?—To bring it before the magistrates; the constable summoned the party before the magistrates.

3683. What was the evidence adduced?—In the case I am alluding to, where the 317 sacks were seized, it was said to be mixed with china clay; there was a portion of china clay intermixed with it.

3684. What witnesses were called to prove that; analytical chemists?—Yes, and the person who seized it; and I believe a discarded miller, in that case at Goole, who had given some information to the constable.

3685. You are speaking now of your own case?—Not of my own case.

3686. What was the result in the case to which you refer?—A fine of about 50 *l.* This was the article that he was charged with mixing with his flour (*producing a piece of china clay*).

3687. Is this the mixture itself?—That is the article that he was charged with mixing with it; sending through the stones along with the wheat.

3688. What is this called?—China clay; it comes from Cornwall; it is of very fine texture; you will find it is like flour if you squeeze it in your fingers.

3689. In what form was it found, do you know?—I never remember a case of that article being mixed. I never saw anything of that kind mixed during my experience of 27 years, but I suppose they would break it up into small particles, something like the size of wheat, and smash it up with some sort of rolls, and then introduce it with the wheat, and it would go steadily through the stones with the wheat. It would be undiscovered by any person but a miller who knew how to feel the spouts where it is grinding; a miller, who is a practical man, would know by feeling the spout where the flour comes down; there is a little greasiness in it; it is of a soapy feel.

3690. Would that give the character of soapiness to the entire body of the flour?—Yes, in my judgment it would need alum; it would have made the flour very heavy, and no doubt the alum gives it a lift.

3691. Mr. *Sheridan.*] What do you mean by giving it a lift?—The alum would make the bread rise; that article would make the flour heavy; it would be as flat as paper, it would not rise in the oven; it would very much deteriorate the quality of the bread; it is simply put in to give weight where it is used, but I never saw it used; I never remember anything of the kind.

3692. *Chairman.*] Is that an article which might be used without being detected by an ordinary consumer?—It might in some districts; it would be a dangerous article to be near a large town; of course it must come to the railway

railway station, and the porters would know the purpose it was wanted for, if consigned to a miller.

3693. Have any persons been charged with using the china clay as an admixture with flour?—Within the last five weeks.

3694. Within what district?—In the neighbourhood of Goole; two mills; one at Goole, one at Snaith.

3695. Mr. *Peacocke.*] Is that in Yorkshire?—Yes.

3696. Mr. *Sheridan.*] What is the price?—About 18 *s.* per ton.

3697. *Chairman.*] In that ground state?—Just in that state.

3698. Lord *C. Hamilton.*] Where does it come from?—St. Austel, in Cornwall.

3699. *Chairman.*] It is found in the rock in that state?—No; it is filtered through fine sieves; it is natural clay worked up in water, and ground very fine, and then filtered through fine sieves, and allowed to settle as a sediment in pits, and then dug out and sent to the part of the country where the potters use it.

3700. Persons have been charged with selling flour mixed with this china clay?—Yes.

3701. What was the result of the charge?—The constable, in that instance, seemed to be the party who the magistrates relied upon, and he got a conviction; one of the chemists who analysed it said there was none in a great portion of the flour, and the assumption was that the constable had put it in in order to get a conviction.

3702. The magistrates did not take that view of it?—They did not.

3703. Mr. *Sheridan.*] Was the clay found in this state in the mill?—Yes, a small portion was found in the mill; there was not twice as much as the piece I have produced found in the mill, but the report was that a portion was carried to the railway station at that town, and was supposed to be for him, which was disowned; the miller himself said it was not; I have had him at my house since our trial was over, and he declares his innocence.

3704. Lord *C. Hamilton.*] Was any owner found for that clay afterwards?—I did not hear the end of it; it is about 50 miles from where I live.

3705. Mr. *Peacocke.*] Do you know under what Act of Parliament those proceedings were taken; is it the Act of Will. 4?—It is that portion that says, that no matter of this kind shall be found on the premises of a miller.

3706. What was the bench before whom they obtained their conviction; was it a borough bench or a county bench?—It was one of the West Riding magistrates.

3707. Lord *C. Hamilton.*] Though you do not know all the circumstances, you are quite sure that there was a quantity of this clay found at the railway station, and no person, after this investigation had taken place, would own it?—I am not certain that it was found; I heard this from the counsel who defended him before the magistrates; he said there was such an article at the station.

3708. It being disowned, proves that whoever was the party concerned, probably bought it for an improper purpose?—I cannot see that; it was in the line of transit to where it is legitimately consumed—Knottingly Pottery. There are beyond Goole several potteries; this article I fetched from the pottery last week just to look at it; I thought I might have a sample to show the Committee here.

3709. Mr. *Sheridan.*] What was the adulteration with which you were charged in your case?—I had 12 informations against me; adulterating with sulphuric acid, lime, and magnesia was the first charge, under the Act of William, they went through all that; we had a very tedious trial; it was adjourned three times, and the prosecution had Dr. Letheby from London.

3710. There was no charge that you used china clay?—No.

3711. Lord *C. Hamilton.*] I understood you to say that this party seized all that he found upon your premises?—At Wakefield, they seized every ounce that we had on the premises.

3712. Did he, before making that seizure, ascertain that it was all of the same quality?—No; he took no pains whatever to do so; he simply just looked at two sacks, and then seized 85 others, without ever looking to see whether they were full of beans, peas, malt, or oats, or anything.

3713. Did you, for your own protection, insist upon having a sample, so that you might be able to justify yourself, by showing that when it was upon your

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premises it was not adulterated?—I was, unfortunately, six miles off, and my man had not the caution to do so the first time. They seized upon two separate days; they seized on the 25th of February and on the 26th they made a final seizure of everything we had; on the second day my man jumped on to the waggons, and cut holes in every one of the sacks; we had five sorts of flour; we knew them by a certain mark which we had on the string of the sack; my man jumped on to the waggon, and cut a hole in the centre, and took samples out of every class, which he preserved as evidence, for us to send to London to be analysed.

3714. Did the result at the trial of the examination of those samples tally with what was stated in the accusation against you?—No, not at all; they abandoned adulteration after the first time, and returned us 82½ sacks of flour back.

3715. *Chairman.*] I need scarcely ask you whether, after the experience you had in that trial, your opinion is, that the present state of the law is not satisfactory; at all events as regards the millers?—Not at all; it is a very grievous position for an honest man to be put in.

3716. Although you think the miller is in a disadvantageous position, you are not of opinion, I presume, that the miller should be left to do what he pleases, without any interference?—I think it is necessary to have a moderate inspection of mills as a protection to upright and honest men.

3717. Mr. *Peacocke.*] What do you call a moderate inspection?—I think there should be a very competent and intelligent man in the district that should inspect the mills at any hour he chooses, either night or day. Many of the mills in our part of the country do as much at nights as days; there is a relay of hands, and the mills go on with great vigour the entire of the night; the mills of Yorkshire and Lancashire.

3718. Mr. *Sheridan.*] Your objection is not so much to an inspection as to the men who generally inspect?—No, I think it would be a great advantage and satisfaction to the country, and even to the public, and would do away with such exhibitions as we had at Wakefield. It all happens at the mill; even alum cannot be intermixed properly anywhere so well as at the mill. If the mills could be made pure, I am persuaded that the community could have a pure article.

3719. Mr. *Peacocke.*] Are the Committee to understand you to say that you believe the alum with which the flour is adulterated is generally mixed with the flour by the miller?—Yes, mixed in the wheat, and ground with it; it cannot be mixed properly, so that it is undiscoverable, without it is ground with the wheat in useable proportions.

3720. It would be lumpy if the bakers mixed it?—They can dissolve it in warm water, and use it that way, but they cannot put it in that way, in proper quantity, to be useful, to give a good appearance to the bread, and make the bread very comby, and nice, and light, and give a little better colour to it; it must be ground with the wheat; an inferior class of wheat can be used where alum is permitted.

3721. You mean that the adulteration with alum must be done by the miller?—Yes, to put the quantity that is undiscoverable, and give a better appearance to the flour.

3722. Mr. *Sheridan.*] Did you say that you grind no flour at your mill which is not adulterated with alum?—We do not use any alum; we do not use anything but pure wheat.

3723. *Chairman.*] You are speaking of the way in which alum may be mixed with the flour?—Yes, and has been mixed by many millers.

3724. Mr. *Peacocke.*] In your neighbourhood?—In all parts of Lancashire and Yorkshire they have used it steadily for the last, say a dozen years, before the conviction at Bradford, Yorkshire, I referred to. It was never known until about a year and a half ago, that the Act of Parliament allowed the seizure of the whole property; then it became very dangerous, when they could take a thousand quarters of stuff away in waggons, in the manner they did from my place; that is the alarming part. If there had been nothing but the disgrace, and the fine of 10*l.*, I do not think the matter would so easily have been put an end to, as it appears to be in our part of the country.

3725. *Chairman.*] Do you think the excessive stringency of the law has tended to produce an effect upon the minds of the millers, and to induce them

to

to sell pure flour?—There is no doubt that the fear of an immense seizure taking place, as it might in some instances to the extent of 5,000 *l.* or 6,000 *l.*, has quite upset it.

3726. Do you think if it had not been for that very severe course the millers would have been willing enough to pay the fine, and go on adulterating their flour with alum?—I think some parties would, if it had not been for the fear of seizures.

3727. Mr. *Peacocke.*] Do you consider that fine and exposure would not be a sufficient check upon adulteration?—Not upon some millers, men of not first-rate character; small millers.

3728. In many cases fine and exposure would not be a sufficient check, you think?—No; I think it would not in some districts.

3729. *Chairman.*] Have you thought what course it would be advisable to take in order to check adulteration?—I think it would be necessary to inspect mills, and give a sort of report continually; I think the mills should be inspected very frequently.

3730. Mr. *Sheridan.*] To what do you object in the present inspection?—It is by men who do not know flour scarcely from that stuff which I have placed before the Committee.

3731. Do you object to the inspection, or to the individual who carries on the inspection; the person generally employed is the person you object to?—Yes; under the Municipal Acts, inspecting flour has become a portion of the office of the inspector of scavengers. Under the 26th section of the Act of last Session, the inspector of nuisances is the man who inspects butchers' meat, and he knows nothing about flour; yet he is the inspector of all those things; at his own mere motion, he goes where he chooses; he has a sort of roving commission in the instance of Wakefield.

3732. Viscount *Ebrington.*] Under the Act one and the same person is employed to inspect and to report upon defective drainage, upon diseased meat and upon adulterated flour, and other food?—Yes.

3733. And it is your opinion that some properly skilled inspector should be employed to inspect at any rate that part of trade in which you are engaged, namely, flour?—Yes; flour is a very large article; for instance, in Wakefield there is one miller who grinds 3,000 quarters of wheat a week; it would require a skilled man to look after it; a man who was fully competent in his knowledge of wheats; he ought to know the class of wheats, which the present inspector cannot be supposed to know; he does not know Egyptian wheat from Spanish wheat, and he would not know English wheat from Baltic wheat. I think, to have a proper inspector, he ought to be a discreet, clever man, who has a full knowledge of all classes of wheat, and who could tell at once by going to the spouts in the corn mill what was going forward; he would know where to go to, and by a feel with his fingers to look for anything he suspected was coming down that spout.

3734. In short, instead of employing one and the same inspector to inspect nuisances and adulterations of all sorts in one place, you would rather have a number of different inspectors inspecting the same sort of adulterations with which they were thoroughly acquainted in different places?—It must be so to be effective and not oppressive, to carry out the wise intentions of the Legislature. It would not do for a chemist to examine wheat; a person who would be a proper party to look after drugs would be quite an ignoramus in looking after wheat.

3735. What is your opinion as to the best mode of procuring adequate inspection at a moderate cost?—I think it would be very possible for a moderately clever man to look after a very large district. With one or two subordinates, he could take the whole of those two counties of Lancashire and Yorkshire, and come unawares upon any miller he suspected. Those that were not suspected, would be very much alarmed to find him knock them up at midnight; he ought to have the power to enter the mills at any hour of the day or night. In one instance of conviction that we have had in the neighbourhood of Wakefield and at Pontefract, they ground the alum at night, and they intermixed it in the dressing in small portions when nobody observed them.

3736. But you object to imposing upon one and the same man the inspection of all sorts of different nuisances and adulterations?—Just so; the man who

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takes so many things in hand, accomplishes nothing well; you had better give him a wider district and confine his inspection to that one line.

3737. You think that system might be adopted, notwithstanding the objections which might be taken to it on account of its interfering with the absolute power of municipalities within their particular area of jurisdiction?—I think you might deprive the municipal corporations of the inspection of flour, and let the inspector-general, as you might call him, with his subordinates, scour the entire country for a distance of 100 miles round; there is no miller, either great or small, who would attempt to adulterate if there was an active and efficient inspector-general appointed, with two or three subordinates that he could send at any hour of the night.

3738. Would you apply the same principle to the inspection of drugs, with which you are not acquainted, and to the inspection of meat, with which you are not so immediately acquainted as with flour?—I think the meat might be left to the inspector; for instance, at Leeds I once was a member of the town council there, and we had a very intelligent inspector, a butcher; he was a very clever man, and he did not make it oppressive, but he detected bad carcasses very acutely. I think a butcher is the best man for meat inspection.

3739. Do you think in each case it ought to be a person thoroughly and specially understanding the particular class of adulteration or the nuisances which he is called upon to inspect?—I think it should be.

3740. Do not you think that in the case of small municipalities the having a separate inspector for meat, and again for drainage and nuisances, would be a very heavy expense?—No. I do not know whether the drainage comes fairly within his province; for instance, such a man as they have at Wakefield is a very illiterate kind of person, and he would understand very little about drainage; he understands meat best; he is an ex-butcher.

3741. Lord *C. Hamilton.*] Would you propose to add to the duties of such an inspector the charge of examining the flour on the premises of the bakers, and also their bread?—I think that person would not be competent to judge as to flour; it is very difficult to discover alum even by good judges when it once becomes well mixed in the flour at the mill.

3742. Would you include the stock of flour on the premises of the baker?—No. I do not think that the same man would be competent for that, and to understand the classes of wheat. Under the Nuisance Removal Act a very serious case might arise; for instance, wheat might be taken away by an inspector; 1,000 quarters of wheat might be landing from ships at Wakefield from Egypt; that class of wheat comes sometimes in a very heated, filthy state, and it requires to be got out of the vessel quickly; it is so hot that it would roast eggs; but after it has been exposed to the atmosphere in good warehouses it comes back to its natural condition and makes very excellent flour intermixed with English wheat, and it has rendered very good service to this kingdom. The inspection of wheat would be managed by the inspector of mills in the most efficient manner, because he would know the class of wheat which he would allow to be landed; very great injustice might be perpetrated on a party by an ignorant inspector seizing his wheat and putting him to great expense.

3743. Mr. *Peacocke.*] Were those convictions which you speak of obtained on the single evidence of the inspector?—No, on the evidence of the chief constable and a clergyman.

3744. On his evidence alone?—No; he appeared to be the prosecutor.

3745. On his evidence alone or not; were there other witnesses?—I almost forget whether there was any other evidence; there was the evidence of a clergyman at Wakefield.

3746. Do you know a single case of a conviction being obtained on the single evidence of the inspector of whom you speak?—No, I think I do not.

3747. Those convictions were obtained, were they not, on the evidence of analytical chemists, who were called in, as you say, from London?—Not in that case of conviction, he was not a chemist; he was a clergyman, Rev. W. R. Bowditch.

3748. But I think you also said there were other convictions obtained on the evidence of analytical chemists?—In the neighbourhood of Goole there were.

3749. On the evidence of Dr. Letheby, brought down from London?—There was no conviction when Dr. Letheby was called in, that was my case.

3750. That

3750. That person got off?—Yes, entirely; in every instance; upon all the various samples.

3751. *Chairman.*] The evidence of the clergyman was scientific evidence, was not it?—He professes to be scientific.

3752. Is there anything else you wish to state to the Committee?—There is another part of the Act of William, which is very stringent as to the mixing of peas or beans; the question is, whether that is not a power that is unnecessary.

3753. You mean to say, that forbidding the mixing of peas and beans, you think is an unnecessary enactment?—I think it is; there are times, as for instance in 1847, when the wheat is a little tender and a little sprouted, that a few fine old beans will not injure the flour, but rather do it good and strengthen it.

3754. If you gave permission to make that mixture, do not you also open the door to a great deal of fraud?—I cannot see that there is any fraud in that; the people are judges of flour; if you put too much it would spoil the colour; the public look at colour and flavour.

3755. And you think the public know whether flour is perfectly pure, or whether it is mixed with bean or pea meal?—Yes, it would soon be offensive; it would smell strong in the oven; it would not do them any harm.

3756. You would be disposed to repeal that part of the Act of William?—Yes. I do not know that it is any particular advantage to the millers, but I think it may be useful sometimes, for instance, in a year of rain, after the harvest almost every sample of wheat is a little sprouted, and in those cases it would almost run out of the oven, as it is called, with tenderness.

3757. What is the difference in the value of those meals as compared with wheat?—At present good wheat is worth about 66 *s.* a quarter, and beans, which are four stones per quarter heavier than wheat, are worth about 46 *s.*

3758. They are cheaper?—Yes.

3759. Viscount *Ebrington.*] Beans are always much cheaper, are they not?—When wheats were very low, at the time when they were 5 *s.* a bushel, then beans were nearly as high.

3760. Mr. *Moffatt.*] You would not propose the introduction of bean flour in so large a quantity that it would make any material difference?—No.

3761. You would simply propose that there should be permission given to introduce bean flour as an improvement of wheat flour under certain conditions?—Yes; the Act of Parliament also forbids the use of barley, and you cannot intermix one grain with another under that Act without being liable to have the property seized. In my own case Professor Taylor, of Guy's Hospital, was required by the West Riding magistrates at Wakefield to inspect the flour by microscope, to discover pea and bean flour, and in that instance he declared in his analysis to the magistrates that he sought very carefully for pea and bean flour, but there was none. I was charged in 12 informations, all given at one time, with adulterating with sulphuric acid, lime, and magnesia, and a mixture of peas, beans, barley, and various things. Now, fine barley has been very useful during the last year, when wheat was so high; barley has been ground, and a little barley with the wheat has lengthened the quantity very materially, and has been of great service to the community, and made the price of wheat much lower than it would have been; there have been many thousand quarters of barley used last year; a little fine barley mixed with the wheat is an advantage, and we thought people knew it, and had no objection to a little fine barley intermixed with the wheat.

3762. *Chairman.*] Are you of opinion that it would be advisable to let the millers mix those grains with wheat?—Yes, it will correct itself; if you put too much you spoil the colour of the flour with the barley.

3763. Is there any other admixture you would permit millers to use?—No.

3764. Would you permit the use of alum?—No; alum is a troublesome thing to a miller; his men may spoil a large quantity of flour with neglect of the machinery that mixes the alum; it wants to go in very carefully, and if he was to get too much it is a great risk to the miller; it imposes an immense anxiety on him to do it properly. I was always opposed to it, but at last I found that the Lancashire parties would not have our flour without it had a little alum in it, and if we wanted to compete with our neighbours we must either use it or discontinue the Lancashire trade.

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3765. Viscount *Ebrington.*] You are aware that beans and barley are extremely nutritious and perfectly wholesome?—Yes.

3766. You are also aware that alum contains no nourishment at all?—None whatever.

3767. Do not you conceive that that makes an essential distinction between the use of the two articles?—Yes, no doubt of it.

3768. Mr. *Peacocke.*] With respect to those convictions which were obtained, were they obtained before borough magistrates or county magistrates?—In borough matters the borough and county magistrates act together at Wakefield, and in county cases none but West Riding magistrates act.

3769. Do you know of a single conviction that has been obtained before a bench of borough magistrates only?—Yes, at Pontefract, I do.

3770. Were there no county magistrates there?—No.

3771. Are you sure of that?—I think there was not; I cannot speak positively.

3772. *Chairman.*] Is there any other point upon which you wish to give evidence?—It struck me that it would be a very dangerous experiment if the inspector at Liverpool was to commit such a mistake as the inspector at Wakefield did; he took even the small quantities in the sack bottoms, three or four stones, and they had everything to yield up and bring it all back. It would have been a very grievous thing if the inspector at Liverpool had committed the same mistake as the inspector at Wakefield did. Suppose he had seized a ship load of American flour; it comes in large quantities and is sometimes very warm; it is put on the quay for a couple days, and then the American flour, which is in barrels, becomes a very fine quality and will keep well for two years after that, whereas if it was taken by the inspector at Liverpool at the moment it came from the ship he might declare that it was unfit for human food, and he might confiscate a large quantity, say 10,000 *l.* worth of flour, and get a conviction. I think if that were to happen with an American subject at Liverpool, it might create more uneasiness with the Government than the case at Wakefield did.

3773. You think the power is much too large?—Yes; I think they might take a smaller quantity, and be positive that it is adulterated, before they act; it requires great deliberation to prevent committing such mistakes, because they make themselves a laughing-stock to the general public. The exhibition at Wakefield caused thousands of people to assemble in the streets to laugh the authorities to scorn for the very insignificant manner in which they had acted.

Mr. *Emil Richter*, called in; and Examined.

Mr. *E. Richter.*

3774. *Chairman.*] YOU are a Doctor of Philosophy, are you not?—Yes.

3775. Under a German diploma, I suppose?—Yes.

3776. And your present occupation is that of a manufacturing chemist?—I am analytical and managing chemist to Messrs. Savory and Moore.

3777. You have had a good deal of experience, I believe, in Germany as to the state of the law affecting drugs and medicines?—Yes.

3778. Can you give the Committee any information as to the state of the law in Germany with reference to the inspection of drugs and medicines, and its effects upon the purity of those articles?—I believe about thirty or forty years back pharmacy in Germany was in the same state as it is now in England; but by applying a proper law and by bringing pharmaceutists into the highest state of education, and by superintending chemists' shops, I believe we have almost conquered the adulteration of drugs. We make chemists keep proper medicines, and allow them, on the other side, a proper profit.

3779. In what way do you compel them to keep proper medicines?—Before we know what we have to keep, we must have a book according to which we have to work; that book is the pharmacopœia. Every German chemist is bound to work according to his pharmacopœia, and only to have the drugs which are recommended in the pharmacopœia. A person who is to be apprenticed to a chemist in Germany has to pass an examination, in which he has to show that he has had a liberal education with regard to classics, mathematics, and natural philosophy, and after he has passed that examination, he may serve his apprenticeship. As an apprentice, he is educated both practically and theoretically

theoretically, and then he has to pass another examination to show that he has acquired such knowledge as will enable him to judge of medicines, and to combine medicines. Before he passes the second examination as an assistant, he is not allowed to prepare medicines but under the inspection or under the superintendence of the principal, or of an assistant who has already taken an oath to adhere to his pharmacopœia. After he has shown in this examination that he is qualified to judge of medicines, and to combine medicines, he has to take an oath that he will obey the medical laws of the country, and that he will look up to the pharmacopœia as his principal rule; that he will work according to his pharmacopœia, and only according to his pharmacopœia. After this he is obliged to serve a certain time, not less than three years, as an assistant, and then he has to pass the last examination, which entitles him to keep a chemist's shop; and he has to take a second oath, by which he promises to obey the laws of the country with regard to medicines. If it would be of any assistance to the Committee, I shall be happy to translate those laws from German into English, and lay them before the Committee. It is a short document, which comprises almost everything on the subject. We have laws for selling poisons, and we have laws for selling physic; we can only do it under certain regulations, and, of course, if we act against those regulations, we commit ourselves, having broken our oath; but, on the other side, the Government grants us protection. The prices of medicines are fixed by Government, and a reasonable profit is allowed; no chemist can oversell or undersell another. Every year, I think once or twice, generally speaking once, the wholesale trade is consulted with respect to the prices of the articles, and a committee is appointed to give chemists and druggists a fair profit.

3780. Do you think such a system would be applicable in England?—No.

3781. Is the effect of the series of arrangements in Germany which you have described, to produce a pure state of drugs?—Certainly.

3782. There is no temptation to adulteration?—No; the Germans have very little to be proud of, but I think that is one of the things of which they have a right to be proud.

3783. Viscount *Ebrington.*] Can you tell the Committee whether you think any part of the German system, and if so, what part of it, might be applied to this country, judging from your own experience and what you have seen and know of this country, its institutions, and its people?—I think a great deal of the German system might be applied to this country with good results, and it would not meet with any resistance on the part of Englishmen; for instance, I would put the young chemists and druggists, as we have done in Germany, under the highest state of education that they could possibly attain; the more you educate a man, the more like a gentleman he will always act. I do not believe there is any law in the world that would protect us against adulteration if you do not kill the germ of it in the first instance.

3784. *Chairman.*] Is not that to some extent being done in this country through the means of the Pharmaceutical Society?—Yes.

3785. You believe that to be an important institution?—I believe it to be an important institution; I believe the Pharmaceutical Society has done a great deal of good, together with the Press. I believe "The Times" has done quite as much good as the Pharmaceutical Society.

3786. Viscount *Ebrington.*] And the "Lancet"?—Yes. I do not wish to trouble the Committee by referring to the different adulterations upon which they have already had evidence; a great many adulterations take place; some have been exaggerated and some not, but I believe there are adulterations which ought to be checked, and I believe the Legislature ought to interfere.

3787. By what means do you think adulteration could be checked in this country?—In the first instance, you would have to survey the chemists' and druggists' shops. I do not believe that could be done without a system of licensing, and the money paid for licences would defray part of the expenses of maintaining a board of examiners or a board of inspectors, whatever you may call them. Those people who cannot afford to pay the money for being educated, and who cannot pay for a licence, do not deserve to be chemists. If you licensed chemists and druggists, you would have a check upon them, and you could say, every apprentice you take you are compelled to educate properly; if you cannot do it yourself you must send him to the Pharmaceutical Society. Of course we do not want you to send him to the Pharmaceutical Society if you

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can prove that you are able to educate your apprentice properly. Let it be shown that a man deserves the name of a chemist and druggist. It is no great credit to have the name of a chemist and druggist now in England, but I hope it will be better.

3788. Would you not, by the system you propose, give those licensed chemists and druggists the protection of a monoply in the sale of drugs and medicines by retail?—I am afraid you could not start any monopoly in England; you would license them only as a means of check to enable you to see what chemists and druggists were doing, and to see that the public is guarded against fraudulent adulterations.

3789. At any rate, you would forbid any one taking the title of chemist and druggist, and professing to prepare and sell medicines without having this licence, which licence should be contingent upon the person having passed a proper examination?—Most decidedly. I would not act too severely in the first instance, because you would by that means excite so much opposition, that perhaps the plan would fall to the ground. You must try to bend, not to break. Of course, there are many old chemists and druggists who must die out before such a plan could be matured; you must not try to remove them abruptly, or you would incur a great deal of resistance. If they were licensed, you would have a check upon them. Let them first be educated, and do not allow any one to act as an assistant who has not passed an examination. If there were inspectors to examine the shops, they could also ascertain if the persons employed were duly qualified, by making them produce their certificates giving a right to the title of a chemist and druggist. Then, of course, you ought to have the power to superintend the chemists' shops. I would not make a punishing power of it, but I would make a correcting power of it. Mr. Wakley said, very correctly, that you ought to have superintending power, but perhaps he was too severe in saying that people who sold bad articles should be placarded in all the public thoroughfares; perhaps they are often not so bad as they may be supposed to be. I do not believe it is a proper plan at all to go into a chemist's shop and take away an article to examine it. A man having anything condemned may then say, "Come and examine my shop; you will find my articles pure. I do not know how this has happened." I would appoint proper inspectors, and let those inspectors do their duty. You have about 1,200 chemists' shops in London; appoint for these 1,200 chemists' shops six inspectors, and let every inspector examine about 200 shops in the year. Let him go from day to day to the chemists' shops; not to take articles away from the chemists, but examine them in the presence of the chemist, on the premises; you can soon see from the appearance of the man, and if his shop is kept clean and in proper order, how he is conducting his business. Supposing you send to a shop to purchase sweet spirit of nitre, and you find that it is of a too high specific gravity of acid, you would say, "It is spoilt; it is a bad article; you must placard this man; he sells a bad article." You are quite right in saying that he is selling a bad article; but perhaps the man has not been properly educated, and he has kept his sweet spirit of nitre bottle upon a top shelf, in a hot place, where it would be decomposed. The inspector should not punish him for such a mistake in the first instance; he should say, "You must keep this in such and such a place." It is quite another thing if a man adulterates fraudulently. I would appoint inspectors specially for chemists' shops. You might perhaps use the Excise officers to inspect grocers, bakers, millers, and all other branches of trade, but you ought to have proper people to inspect chemists' shops; you ought to have gentlemen who know how to judge of drugs, and who know how to examine them quickly. A great deal depends upon the routine of business: I have seen a chemist's shop thoroughly examined in a day and a half, and I am quite sure there was nothing in it that was not properly examined.

3790. Have you ever turned your attention to the means that would be most available for the inspection of chemists' shops in the country and in provincial towns?—Of course you ought to have some more inspectors, because the district is larger, but you might do it in the same way that you do in London. I believe there is a great objection to a central Board, but you might have several local Boards. I do not believe that the expenses would be very much; say, for instance, you have 1,200 chemists in London, and every one pays 1 *l.* yearly for a licence, which is not too much for every one to pay, that will give 1,200 *l.* a year.

If

If a chemist takes an apprentice he has a premium with him, and other advantages, and he can afford to pay 5 *l.* for that apprentice. Supposing there are only 100 apprentices taken annually by chemists in London, you would obtain from that source 500 *l.*; the 1,200 *l.* for licences, and 500 *l.* for apprentices, make 1,700 *l.*; and if you pay the six inspectors 300 *l.* each, it would cover the expense within 100 *l.*

3791. *Chairman.*] Is there any law in Germany as regards the importation of drugs?—There is not.

3792. Drugs may be imported into Germany in a very impure state?—In a most impure state; I believe it is of no consequence at all to deal with any one but the person who sells them. If you inquire of the importer or wholesale druggist, you might be referred to Egypt or Turkey, to parties there. The man who sells the article ought to know what the article is made and what it should be of, and I would make him alone liable for what he sells.

3793. Viscount *Ebrington.*] May not many valuable preparations be extracted in perfect purity from very impure drugs?—Most decidedly. You could not measure the limits to which it would injure England to prohibit impure drugs being imported. Take, for instance, bark; bark might be quite mouldy and unfit for medicinal purposes as bark, but the quinine manufacturers will manufacture quinine from it. Opium may be sold, because it is damaged, at a very low price, and still to the manufacturer of morphia it may be worth more than opium that bears even a higher price.

3794. What you wish to secure is purity in the articles which are administered to the public?—Certainly; if a manufacturer chooses a bad article which does not answer for his manufacture, he will find out his mistake, for he cannot sell it afterwards. Because if you make the people answerable who sell the articles, they will not buy anything but what they can sell. Of course, you should not be too severe in the first instance, because we must go through a state of transition. If you take, for instance, physicians, I do not believe there are greater medical men than the medical men of England; and what is the reason of it? Even as late back as 1511, the College of Physicians has been established, and they have had good time to organise themselves. If you only give Pharmacy 50 years or less, it will be quite as far advanced. What is a physician if he has not a good chemist? I believe the importance of having a good unadulterated article is not half enough thought of. You may have the best physician, and if he prescribes a pure article, and you get a bad one, he is of no use at all.

3795. *Chairman.*] Is there any other suggestion which you wish to make to the Committee?—I wish to draw your attention to the fact of there being three different Pharmacopœias; there is the London, Dublin, and Edinburgh Pharmacopœias. Those three Pharmacopœias ought to be abolished, and you ought to have but one. It has been stated before this Committee that if you take a solution of morphia at one place, you get it as strong again as you do at another; the same with respect to prussic acid, and so forth, almost throughout, in less degrees of difference.

3796. Do you look upon that as a great evil?—I look upon that as a great evil; it would not be such a great evil on the Continent, because the people there do not travel so much as they do here. An Englishman in a week's time may take three different strengths of the same medicine.

3797. Mr. *Peacocke.*] Does the standard of strength differ much in the three Pharmacopœias?—Very much.

3798. Therefore an English prescription cannot be safely made up in Ireland, or *vice versâ*?—It might or might not; there is a great difference in the solution of morphia and prussic acid.

3799. *Chairman.*] In one country the admixture would be dangerous, and in the other perfectly harmless?—Certainly.

3800. Mr. *Peacocke.*] Which Pharmacopœia gives the strongest mixture?—I think the English Pharmacopœia gives as much morphia again as the Dublin, and the Edinburgh gives as much prussic acid again as the London. I am obliged to work according to the London Pharmacopœia; that is my rule.

3801. Do you think that the London Pharmacopœia should be applied to the three kingdoms, or do you think that a revision of the whole would be necessary?—Yes, a revision would be desirable and the standard should not be such as is impracticable, which the present frequently is.

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3802. Viscount *Ebrington.*] Is there a greater uniformity in the Pharmacopœias on the Continent?—There is; but the Pharmacopœias still differ. There has been a great deal spoken and written on the subject, and we are in hopes that we shall have one Pharmacopœia; but from the year 1848 the political movements have put it aside.

3803. You look to some congress, such as that which met with regard to statistics and the classification of diseases, directing their attention to the unity of Pharmacopœias throughout the civilised world?—Yes. There is another topic upon which I wish to say a few words. I think it was Dr. Nelligan who mentioned about poisons being kept in proper bottles; when Mr. Bell was here the question was put to him, and he justly observed that a rule not properly kept was worse than no rule, but there is no reason why we should not keep a rule. I see from the "Times" paper, that another accident has occurred, and in my practice it very frequently happens that a gentleman or a lady will come to me and say, "I have taken something out of a bottle; I do not know whether it is poison or not; will you analyse it?" Several things have been proposed, and Mr. Savory has settled upon having a particular-shaped bottle, and he has employed some of his bottle merchants, and I think they have succeeded very well in the bottle which I will show the Committee (*exhibiting a bottle*). In Germany we keep poisons, not in peculiar-shaped bottles, but in peculiarly-marked bottles; and poison is never sent out in more than a necessary quantity; but here, where people can buy poisons in any quantity, it is necessary that they should be made as difficult to get at as possible. This bottle, which has been made for Mr. Savory, is so constructed that the discharge of its contents may be regulated to a drop.

3804. You think it would be safe if poisons were kept in such bottles?—Yes; I have had a great deal of practice. I think it is a very good plan indeed.

3805. Mr. *Peacocke.*] A suggestion has been made to the Committee that potions should be kept in one shaped bottle, and external applications in another; do you see any objection to that?—No; I do not see any objection to it. But a poison may be ordered to be put in a medicine, and a few drops of it would be a proper dose and give relief to the patient, whereas a large quantity will kill him. Now it may happen that a careless assistant, in preparing the medicine, will pour in a few drops too much with the present bottle; but if you have a bottle like the one I have produced, it operates as a double check; in the first instance, the assistant knows by its peculiar construction that it contains poison, and in the second, he can regulate it to a drop.

3806. Mr. *Moffatt.*] To what portion of Germany does the evidence which you have given, with regard to the system of inspecting chemists' shops, apply?—With a little modification, it will apply to all Germany, with the exception of Austria.

3807. Is there throughout the whole of Germany one standard pharmacopœia?—There is not; different parts have different pharmacopœias. As I have observed, we are endeavouring to have those different pharmacopœias abolished; they do not differ so materially as yours do.

3808. Is this system recognised and agreed upon by all the states of Germany, with the exception of Austria?—Yes, there are several modifications; but in point of fact, they come to the same thing.

3809. The same principle obtains in the kingdom of Prussia as in any one of the small German duchies?—Certainly.

3810. Only the pharmacopœias differ?—Some of the smaller states use the Prussian pharmacopœia.

3811. The same principle of administering oaths to the vendors of drugs, and the same system of inspection, obtains?—Yes.

3812. And the same system of government fixing the prices at which the drugs are to be sold?—Decidedly.

3813. Can you inform the Committee upon what principle the prices of the drugs are fixed?—I think the vendor of the drugs is allowed 50 per cent. or thereabouts.

3814. Upon the prime cost of the drugs?—Yes, when mixed according to a prescription; otherwise he can make his own charge.

3815. How is the prime cost of the drugs ascertained?—The prime cost of the drugs is ascertained from the principal importers.

3816. The

3816. The value of the drugs is obtained from the principal importers, and the average is struck upon which the government tariff for each State is fixed?—Yes.

3817. That is in reference to all drugs that are imported?—With reference to all drugs grown and imported and chemicals manufactured. We have no drug-brokers in Germany, as you have in England; we have wholesale druggists, and some of the most respectable houses are asked to send in lists of prices.

3818. Do the wholesale druggists send in lists of prices at which they are willing to sell the drugs?—Yes.

3819. Upon that a profit is allowed to the dispenser of the medicines to the public of 50 per cent.?—The average is about 50 per cent.; some are much more, and some are much less; 50 per cent. would be a very poor per-centage upon such an article, for instance, as musk, and those things which are used in small quantities.

3820. What is the penalty in case the vendor chooses to charge more than 50 per cent.?—It may go so far as to take away his licence. I cannot give you by heart the different penalties, but you will find them in the law which I shall translate for the Committee.

3821. What would be the result in case the vendor elects to sell his drugs at a less profit than 50 per cent.?—He would be punished.

3822. If the vendor elects to sell those drugs, considering 50 per cent. to be a too excessive profit, at 25 per cent. profit, what is the consequence?—He would be punished.

3823. Did you say that that was a system of which Germany had reason to be proud?—No; the Chairman asked me to give the Committee an idea of the state of things in Germany; different countries have different customs; there are reasons why we should have such a law in Germany, and there are reasons why you cannot have it in England. I do not say that we are proud of paying 50 per cent., but we are proud of a system which prevents people from being poisoned. In Germany a chemist is looked upon as a man of integrity, and he is very frequently made a magistrate or placed in a high post of honour where integrity is required.

3824. That is the vendor of drugs?—We do not call him a vendor of drugs, we call him by a name similar to your apothecary, but he is not allowed to practise.

3825. Assuming that he is a man of very high standing and position, do you think that the oaths which you have mentioned as being constantly administered to him are necessary to bind him to a course of integrity?—I think the oath affords an additional guarantee. They are not all men who would be bound by a moral restraint only.

3826. Mr. *Peacocke.*] Does not it appear that the vendor of medicine in Germany is sufficiently bound by the rules and regulations you have named, and by having the exact sum prescribed for him at which he is to sell his medicines, without swearing him in addition?—Perhaps we think a little more of an oath in Germany than you do in England; if a man swears an oath, he means to stick to the oath. We administer the oath to make a man keep those rules and regulations.

3827. Mr. *Moffatt.*] Is it your impression that the English are comparatively indifferent to the solemnity of an oath, and its binding character upon the man who takes it?—I cannot enter into the question as to how an oath is observed in England; it does not belong to my branch; it belongs to the clergyman and the lawyer.

3828. You have made an assertion that an oath is regarded with much more sanctity in Germany than in England; what are your reasons for making that statement?—Because you see many more people convicted for having taken a false oath.

3829. In England than in Germany?—Yes.

3830. *Chairman.*] Your impression is, that oaths are rather more lightly taken in this country, from what you know, than in Germany?—Yes.

3831. Mr. *Moffatt.*] I think you have stated to the Committee that the germ of adulteration was ignorance?—I do not believe I stated that the germ of adulteration was ignorance; I said that adulteration should be checked in the germ.

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3832. And that the germ you believed was mainly the ignorance of the goods that the man was dealing in?—Ignorance might be pleaded as an excuse, but I do not believe it is ignorance in many cases.

3833. You believe that the germ of adulteration really is fraud?—I believe it is; I will not say that it is always fraud; it is often to suit the fancy of the customer, who prefers something made otherwise than the pharmacopœia directs, but that is very wrong. I believe much mischief and confusion occurs in that way.

3834. Have you had considerable experience in analysing drugs in Germany?—In Germany and in this country.

3835. Has the result of your experience been to lead you unequivocally to the conclusion that any attempt to prohibit the importation of impure drugs would be very prejudicial to the drug trade itself?—Not to the drug trade, so much as to the manufacturers.

3836. In what regard do you think it would be prejudicial to the manufacturers?—They may manufacture their alkaloids or principles from articles which are unfit to use for other purposes.

3837. Would not the result of excluding drugs not of entire purity be very much to enhance the price and cripple the supply?—It would injure the interests of the English manufacturers, and it would enhance the price certainly.

3838. And it would limit the supply?—Yes.

3839. Lord *C. Hamilton.*] Is the nomenclature of drugs in the chemists' shops in Germany in German or in Latin?—In Latin; our pharmacopœia is in Latin; chemists are not allowed to have a pharmacopœia in German; they are to have a Latin pharmacopœia in order to keep them so educated that they can translate Latin.

3840. Then of course prescriptions are also written in Latin?—Yes. There is only one thing in which German physicians differ from English physicians; they write the prescription in Latin and the direction in German; they give the different ingredients in Latin, and say, "Take so much" in German.

3841. Is that course pursued somewhat with the view of keeping the knowledge of medicines in the hands of a fewer, more select, and educated class?—No, that is already the case; it is a practice that you could not follow in England, and I do not believe it is very right in Germany; it is very certain that it keeps the trade, or as we call it, a profession, select; yet still it is injuring many others who might make a good living, besides those who are already occupied; people are privileged to have a chemist's shop; only a certain number of chemists' shops are allowed to a certain number of inhabitants.

3842. Mr. *Peacocke.*] Is it not generally understood that the object of having prescriptions written in Latin is to obtain a universality of prescriptions; that is to say, that an English prescription will do for Germany, or Sweden, or any other country?—Most decidedly.

3843. From what part of Germany do you come?—From Saxe Meiningen.

3844. Do you know the customs and habits of Germany generally?—I have had experience in all parts of Germany.

3245. With regard to what you were examined upon just now, you said that a chemist in Germany would be punished if he sold drugs below the established price, or above the established price; if he objected to sell a drug at all at the established price, would he be equally punished?—Yes, if he objected to make up a prescription, or sell any drug in accordance with the regulations.

3246. Mr. *Moffatt.*] Have the chemists or the apothecaries, as you term them in Germany, to undergo any examination previously to their taking out a licence for vending drugs?—Yes.

3847. What is the nature of that examination?—Before they are taken apprentices they are examined in the minor classics, in perhaps Cornelius Nepos and Cæsar; they would have to show that they understood their own language well, and they would have to show that they had some knowledge of natural philosophy and mathematics.

3848. Before what tribunal does the examination of candidates for apprenticeship take place?—Our highest authority is a minister; in the same way, for instance, as you have a minister for war, we have a minister for medical affairs; under this minister, there is a medical board composed of physicians and chemists, and under that board are inspectors and local boards. The latter examine

examine apprentices and assistants, and the former those who take shops or manage them. Mr. *E Richer.*

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3849. What follows before a licence is granted to a man to vend drugs on his own account?—He must buy an established shop, which is an exclusive privilege; I do not wish to speak in favour of those privileges; I believe they are out of date.

3850. Upon what system are those privileged shops established in any German State with which you are most acquainted?—They go such a far period back that I really do not know; they may have been granted for some services; in later times we have got licences in the large cities when the population has increased; after the population of the city has increased to 3,000, every one in the kingdom has a right to apply for a licence, and the candidates have to undergo an examination, and the most clever person, who can show the best moral certificates, would get the licence.

3851. So that those licensed shops for the vending of drugs stand somewhat in the nature of a monopoly in favour of the vendors of the drugs?—They are in favour of the public as well, who are protected both to quality and prices. One man might otherwise charge five times as much as another.

3852. Or if, on the other hand, the chemist were disposed to adopt a free trade principle and sell very cheaply, he is prohibited from doing so by the Government?—Yes, with regard to prescriptions only.

3853. Do you know how many chemists' shops there are in Berlin?—I think there are about 20.

3854. What is the population of Berlin?—About 400,000.

Mr. *Stafford Allen*, called in; and Examined.

3855. *Chairman.*] YOU are a member of a firm of Drug Grinders, Stafford and George Allen, and also of Manufacturing Chemists, George Allen and Company?—Yes. Mr. *S. Allen.*

3856. You are aware of the nature of the evidence which has been given before this Committee on the subject of the adulteration of drugs; will you state to the Committee whether generally you concur in the observations that have been made, especially on the part of members of the trade who have preceded you?—The observations have been so various that I hardly know how to answer them. My idea is, having seen part of the evidence which has been laid before this Committee, that the public have been very much abused through the papers by the evidence that has been taken before this Committee, more particularly with respect to the adulteration of drugs and powders, and the grinding of drugs; I cannot speak to any other branches of the trade than the grinding of drugs.

3857. Is it your belief that drugs are much more pure than the evidence which has been already given would lead the Committee to suppose?—Abundantly more so. We were induced to enter into the trade in 1833 from a generally expressed wish of the wholesale drug trade for the establishment of drug-grinders in whom they could have confidence, both as respects integrity and skill.

3858. Then it would appear, that in 1833 there was an impression that drug-grinding was not altogether in the hands of honest people?—There were not enough honest men in the trade.

3859. Were there not a considerable number of dishonest men in the trade?—There were one or two, or two or three.

3860. Without inquiring the exact number, there is no doubt that at that time there existed some dishonest persons in the drug-grinding trade, and it was thought desirable to introduce a leaven of a higher character?—Exactly so. From the great success that the establishment of our uncle, at Plough-court, met with, who was well known in the drug trade, it was pressed upon Mr. Charles May and myself to establish drug mills where drugs could be purely manufactured.

3861. What has been the result of that establishment?—We have received very extensive support from a number of the drug trade and wholesale druggists.

3862. Do you believe that you have got rid of dishonest drug-grinders?—I am not prepared to answer that question; but I am prepared to say that the

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manufacture of drugs, and the grinding of drugs, are carried on in a much better way than they were 30 years ago. I think that drugs were never so purely administered to the public as they are at the present time.

3863. I presume your evidence does not go to this extent, that there are no impure drugs sold?—I cannot pretend to say that there are none.

3864. Do you think that there is only a very small quantity of impure drugs sold?—I think there is only a very small quantity of impure drugs sold; I speak as regards powders; those are the articles that chiefly come under my notice; that is, articles exhibited in powders. I would just observe, if you would allow me, that much has been said here of what is called the four-per-cent. system. The foundation of our business was to endeavour to put an end to that system. We never allowed it in our establishment; we protested against it from the first.

3865. The four-per-cent. system did exist very generally, did it not?—It existed to a certain extent at the time we began business, I believe. I am not able to say from personal observation, because I do not know what takes place in any other establishment than my own.

3866. Mr. *Moffatt.*] Are not you aware that the four-per-cent. system does exist in some instances now?—I believe it does, but to a small extent, compared to what it did 30 years ago.

3867. Viscount *Goderich.*] As you never practised the four-per-cent. system yourself, I presume you regard it as a dishonest practice?—We think it an unfair practice; unfair, perhaps, to both parties. The loss a drug sustains in grinding is very different in one drug from another, and it would not seem to be fair that everything should be returned with a loss of 4 lbs. per cwt.; whereas sometimes the loss is much greater, and sometimes the loss is much less. If the Committee will allow me, I will hand in a Table, showing the losses in drugs in grinding (*handing in the same*). Those are results taken from our books for two or three months.

3868. What is the substance generally mixed with the drugs to make up the loss?—I cannot answer that question, because I know nothing whatever of the operation.

3869. *Chairman.*] Does the loss in grinding fall upon the person to whom the drug belongs?—Yes.

3870. Mr. *Otway.*] You never were a drug-grinder till you ground your own drugs, were you?—My partner, Mr. May, was a drug-grinder in the country, and we transferred the business to London, and increased it; I was not a drug-grinder until that time.

3871. How did Mr. May, in his arrangements with his customers, at the time he ground drugs for other druggists, supply the deficiency or the loss on the drugs sent to him to be ground?—He did not supply the loss; he always returned the article with the real loss which it sustained in the process of powdering and drying.

3872. Viscount *Goderich.*] Did Mr. May find that any objection was made by his customers to his returning the drugs with the real loss?—He found that his drugs were appreciated and approved, and the practice has become more and more general.

3873. Mr. *Moffatt.*] And is now the general practice?—And is now the general practice; but as I said before, there may be exceptions, which I suspect, but I do not know of.

3874. *Chairman.*] Is there any other subject upon which you wish to give evidence?—Something has been said with respect to compound powders; that was another reason for the foundation of our establishment, and we from the first refused to make or sell them, and we have never made a pound. I wish to mention with respect to some evidence given before this Committee by a witness of the name of Gay; I was altogether astonished at such evidence. I never heard of the gentleman in the trade, and I hope his operations were but on a small scale.

3875. Is there any particular answer which that witness gave, to which you take exception?—I understand him to have said that he never ground a drug without adulteration; he particularly spoke of rhubarb.

3876. Did not Mr. Gay's evidence apply to the state of things some years ago?—Yes.

3877. Without specifying the particular charge which he made, what is your experience with regard to rhubarb?—That it is universally ground genuine. At the same time I must state that for the inferior qualities (there are frequently four qualities of rhubarb made) some houses send a little English rhubarb to be ground with it. They send it to us ready mixed, but it is a very small fraction of the amount of rhubarb that is ground; it is chiefly for Ireland and the Colonies.

3878. Lord *C. Hamilton.*] Is there any peculiarity in the Irish climate that makes that kind of rhubarb particularly applicable?—The peculiarity is its cheapness.

3879. Do you grind the British-grown rhubarb?—If it is sent to us to be ground we must grind it.

3880. You would not mix it with other rhubarb in your establishment?—No.

3881. Mr. *Gregson.*] Did not you say that you ground the inferior qualities?—We grind the fourth quality; we should grind it, as we should anything else, if it was sent to us.

3882. Mr. *Sheridan.*] You say that a small quantity of inferior rhubarb is sometimes ground up with the other?—I said that sometimes English rhubarb was ground in certain proportions with other rhubarb for the lowest qualities; I believe the medicine itself to be nearly equally efficacious.

3883. Do you grind it yourself?—We only grind it for the trade; we do not grind it for ourselves. It is a rule of our establishment that we do not deal in any article that we grind for others.

3884. Lord *C. Hamilton.*] What is your belief as to the amount of British-grown rhubarb that gets into the market?—The quantity is very small.

3885. You do not believe that 20 tons have been grown near Banbury; you think that is an excessive amount?—I should have thought it was five times the amount that was used.

3886. Mr. *Sheridan.*] If it is equally efficacious, what objection should there be to using it?—I can see none.

3887. Is there any reason why that quantity should not have been grown in that part of the country?—There is no reason why it should not have been grown. The question I was asked, was whether in my opinion such a quantity was grown; I think not; I think there is nothing like that quantity grown, from the very small quantities that come under my own notice, and knowing what a large proportion of the rhubarb used in London is of foreign growth.

3888. How do you account for so little English rhubarb being used, if, as you say, it is equally efficacious?—There is a general impression amongst the drug trade, that it is not quite so powerful as the other rhubarb, and there is a feeling against it. The trade do not like to use it, because the public impression is, that it is not quite so powerful, although several gentlemen, such as Dr. Pereira and Dr. Timms, were of opinion that it possessed very great medicinal properties.

3889. Lord *C. Hamilton.*] How do you account for the very great difference in price between English and foreign rhubarb, if, as you apprehend, the two articles are nearly equally efficacious?—I hardly know how to answer that question. I do not deal in rhubarb; I merely grind it for the trade.

3890. *Chairman.*] Is there any other article that you wish to observe upon?—I would just observe that, from my experience, there is a constant rivalry going on amongst the drug houses as to who can get the best article; they are constantly stimulating us, by giving us the best drugs, to produce articles of better quality one than another.

3891. You have no doubt that the present state of the drug trade is much better than it was some years ago?—Very much so.

3892. Do you consider that there is any room for legislative interference with regard to the purity of drugs?—I do not see the benefit of any legislative interference, unless it is between the retail druggist and the consumer, so that the drugs may be verified in the shops. As my predecessor, Mr. Richter, stated, there might be some benefit in that, but I am not sure that the benefit would be very great. I believe that drugs are now prescribed to the public in so pure a state, that, generally speaking, there is very little improvement to make.

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3893. Mr. *Otway.*] It does not appear that your remarks as to the purity of drugs, at all apply to the drugs that are likely to be purchased by the poorer classes at small chemists' shops; you have not shown in any way that the drugs which come into the possession of those small chemists are not adulterated, nor is that your belief, is it?—Yes; it is my belief that they are not adulterated, or that they are adulterated to a very small extent indeed. I can only say that if there is adulteration in the drug trade, they do not let us know it, because we have always set our faces against it. At the same time, that being the case, I am bad evidence as to the amount of adulteration; I only speak of what comes under my own observation.

3894. Do you conceive, from your experience, that a small chemist, in a back street, in a low part of London, keeping such a shop as is frequented by the poorer classes, sells as good drugs as Savory and Moore, or Fisher and Toller, or any chemist of repute in London?—I think the fourth quality of rhubarb might be employed in such a case as that.

3895. Do not you think that those small chemists sometimes sell drugs that are very perniciously adulterated?—I do not think so.

3896. In the case of opium, for instance?—I have no means of knowing. My impression is that it is not the case.

3897. Lord *C. Hamilton.*] I understand you to say that you grind what is sent to you, but that you never mix two articles?—Yes.

3898. You have refused to do so?—Yes, many times.

3899. Does not the fact of such applications being made to you, and your character being established for not doing it, convince you that others who are less scrupulous than yourself, do carry out that practice?—The practice may exist, but I do not know it myself. I feel diffident of imputing motives to other people.

3900. You say you have refused applications to adulterate drugs; may it not be presumed that the persons who wish to have it done have gone elsewhere?—I have refused, perhaps, half-a-dozen applications in the course of 25 years to adulterate drugs.

3901. Mr. *Gregson.*] Do you retail drugs?—Not in London. We have a retail and manufacturing establishment in Bedfordshire, which my brother conducts. I know but little about it. He was regularly brought up to the trade, and he has the entire management of that business.

Mercurii, 30° die Aprilis, 1856.

MEMBERS PRESENT.

Mr. Scholefield.	Viscount Goderich.
Alderman Cubitt.	Mr. Wise.
Viscount Ebrington.	Mr. Peacocke.
Mr. Sheridan.	Mr. Gregson.
Lord Claud Hamilton.	Mr. Kinnaird.
Mr. Moffatt.	Mr. Otway.

WILLIAM SCHOLEFIELD, Esq., IN THE CHAIR.

Samuel Robert Goodman, Esq., called in; and Examined.

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3902. *Chairman.*] YOU are, I believe, the Legal Adviser of the Justices in the City of London?—I am.

3903. You have held that office some years I believe?—Thirteen years.

3904. During that period, has anything arisen in your experience before the magistrates touching the adulteration of any article of food in which the justices were called upon to exercise their jurisdiction?—We have never had a single case.

3905. Have

3905. Have you ever had a single case of charge against any person for the adulteration of bread?—Never.

3906. Then in point of fact, as far as practical experience goes, you know nothing of the law affecting this subject?—Nothing more than the general principles of the law.

3907. As you have no practical experience of it, the Committee will be obliged if you can state from your knowledge what the present state of the law is as affecting those who adulterate food?—I apprehend that there are four remedies for it; one is by action, another by indictment, another by summary conviction before a magistrate, and the fourth by the Excise.

3908. Taking the fourth one first, I presume we dispose of that, by saying that it applies only to articles which come under the supervision of the Excise, and not to general articles of food; therefore any action on their part would be confined to those articles?—Yes; the law upon that question would be carried out by the Excise.

3909. You are speaking now of the general law?—Yes; there is an Act of Parliament, as the Committee are aware, with respect to bread in London, and the Bills of Mortality and within ten miles of the Royal Exchange.

3910. There is also an Act affecting the provinces, is there not?—Yes; there is the General Act of the 6th and 7th of William the 4th, which affects beyond the Bills of Mortality; beyond the ten miles.

3911. What is the distinction between those Acts in their provisions?—I believe none at all; one has been taken I apprehend from the other.

3912. Can you state, in general terms, the provisions of that Act?—Yes; I have the Act with me. The general provisions are: power of search by a magistrate's warrant upon information for that purpose; search for any of the ingredients that are mentioned; that is, they may search for and seize corn meal or flour that is ground; the provisions of the Act of Parliament are for a summary proceeding before the magistrate for a penalty.

3913. You refer to the articles of bread and flour?—Yes.

3914. Is there any law within your cognizance that affects other articles of food?—With respect only to ale, beer, porter, cyder, and perry.

3915. Those I believe come under the supervision of the Excise?—They come before the magistrate as well as the Excise.

3916. What is the nature of the remedies in those cases?—Under the Alehouse Act of the 9th of George the 4th, it is an offence against the licences fraudulently to dilute or adulterate liquors. There is a penalty for the first offence of 5*l.* and a cumulative penalty upon further convictions.

3917. That is the General Act?—Yes. The Beerhouse Act is the 1st of William the 4th; that applies to mixing drugs or pernicious ingredients; for the first offence proved before the magistrates there is a penalty of not less than 40*s.* or more that 5*l.*, and for the second offence not less than 5 *l.* or more than 10 *l.* Then with respect to drugs themselves, there is only one Act which refers to them that I am aware of, which is the Apothecaries' Act, under which two parties, duly appointed, have the power to enter any apothecary's shop (but that does not affect chemists), to search for any medicines or drugs which are unwholesome, and if found, they shall burn or destroy them; those are the terms of the Act of Parliament. Then there is a penalty of 5*l.* for the first offence; but the larger penalties are obliged to be sued for in the superior courts at Westminster.

3918. Are there any other articles than those that you have enumerated about which there is any legislation at all?—None at all, that I am aware of.

3919. Assuming that a person purchases adulterated food of any description, is there any, and what remedy for him in the present state of the law?—The general text books state, that wherever a man does an act which will affect the public interest, that is, affect it in such a manner for the purpose of fraud or deceit, that in itself is an indictable offence; but, taking it as a general principle, if the act affects an individual alone, in many instances it would not be an indictable offence.

3920. What would be his individual remedy?—His remedy would be by action. A case occurred in January 1853, that was decided at the Central Criminal Court. A man was charged before the magistrates, and he was indicted for selling a gold chain, stating it to be solid gold, the interior of the chain being of base metal. Mr. Baron Alderson stopped that case, and said, although the man had been in the service some years, and must of necessity have had cognizance of

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the value of the chain, yet he scarcely thought it was a fraud in the servant to do so.

3921. The indictment was not held to be good?—The indictment was drawn, but the case was stopped; I am citing that as one case. I know other cases where I have drawn indictments when I was formerly at the Central Criminal Court, where a person has been convicted of passing off chains as gold which were really not gold, that is, to injure pawnbrokers. Those are merely analogous cases to the present question.

3922. Viscount *Goderich.*] The Committee understand that the only remedy which an individual has against a person who sells him an adulterated or spurious article of any kind is by way of action?—Unless some public injury has arisen from it. There are several cases decided in our text books on this subject, viz., where a man has sold bread with unwholesome mixture in it to the military asylum at Chelsea, it was held to be an indictable offence, because it was selling to a public body; also in a case where adulterated bread was sold to the soldiers at Weedon Barracks, that was held to be an indictable offence.

3923. Then does not it come to this, that in the case of a private individual totally unconnected with a public body, his only remedy would be by way of action?—Yes; but cases might arise which would be indictable.

3924. The ordinary remedy would be by way of action?—Yes.

3925. Is that mode of proceeding within the reach of poor persons?—No, except in the county court; they might take a remedy in the county court, and they are rather fond of going there.

3926. Viscount *Ebrington.*] But practically, is it a remedy which is had recourse to either by rich or poor?—Neither, I should fancy, or very seldom.

3927. Viscount *Goderich.*] Are there such difficulties, either of expense or of any other description, as render it impossible that that mode of remedy should put an end to a wide-spread evil of that description?—The difficulties would be too great for a poor man to grapple with.

3928. Viscount *Ebrington.*] And in proportion to the evil inflicted it would be too great to make it worth a rich man's while?—Yes.

3929. Mr. *Peacocke.*] In the case you speak of, of a person being indicted for selling a chain that was not gold, I apprehend he was indicted under the ordinary case of obtaining money under false pretences?—Yes.

3930. In any ordinary case of fraud you must be aware that no conviction could be obtained under that statute; you would never obtain a conviction for obtaining money under false pretences, really and virtually, under that statute. Do you recollect any instance in which there has been a conviction obtained?—I cannot give you a case decided upon it at the present moment, but I have no hesitation in saying that there have been many at the Central Criminal Court. I am not engaged there now.

3931. Convictions for selling one thing for another?—Yes. I recollect drawing an indictment many years ago against a man for putting sand in sugar; the lower part of the bag being full of sand.

3932. Did you get a conviction?—Yes; then that was the substituting one thing for another.

3933. Did you indict him in that case for getting money under false pretences?—Yes.

3934. Mr. *Wise.*] I presume that the observations you have just made do not apply to bread and flour?—No.

3935. Under the 106th chapter of the 3 Geo. 4, you are aware that the public have already a remedy, if they use it?—I am not speaking of bread and flour; it was a general question that was put to me.

3936. With regard to the bread question in the metropolis, how do you account for the fact that the Act of the 3 Geo. 4, c. 106, which applies specially to the metropolis, has never been used?—It is a local Act; it is not in the Statutes at Large, or it is not generally known that there is such an Act.

3937. Are you aware of the origin of the Act being passed?—Not at all; it was before my time.

3938. Do you think the information having to be laid within 48 hours tends to prevent the remedy being applied?—Yes; it would be too short a time in a great number of cases. For instance, if a man purchased yesterday a loaf which he would not discover was adulterated till to-day, he might come to-morrow to the court, where there would be too much business for him even to get access to

the magistrate without waiting five or six hours; and he might not think it worth his while to do so.

3939. Do you think if it were generally known to the public that any bakers who sold loaves made of mixed flour not marked with M, were liable to a penalty of 10 *l.* and to have their names published in the newspapers, that the public would avail themselves of the Act and come to you for summonses?—I think they would. I think if it were a more general Act, and if the public were perfectly aware that a general system of adulteration was going on, they would apply to the magistrates.

3940. You think that if the Act were renewed, with certain amendments and alterations, and made a public Act, it would have a good effect?—I have no doubt of it.

3941. Viscount *Goderich.*] Would not the mode of proceeding by way of indictment be more liable to objections than that you alluded to by way of action?—Very few persons would think of proceeding by indictment unless they were Government bodies; that has been my own observation at least.

3942. Your observations apply to all cases of fraud of this description, whether in articles of food or any other articles?—No doubt.

3943. *Chairman.*] Have you turned your attention in any way whatever to the possible means of making the law more summary and simple in its character?—One or two things have occurred to me. The first suggestion would be a right of search, either by actual inspectors appointed for that purpose, or by parties connected with the police, where their services could be made available. The right of search exists with respect to defective weights and measures, as you are aware; they have a right not only to search, but also to seize, which is done every week, and every day in fact. Then it occurred to me, supposing it was a drug, for example, whether that drug could not be taken to some analytical chemist, and whether his certificate might not be allowed to be a sufficient presumptive evidence of the component parts of the drug; and in order to call upon the defendant for his answer to the charge, as you do in Custom-house cases, leave the onus upon the defendant to prove the genuineness of the article. In a Custom-house case a man is taken up for smuggling; the Act of Parliament requires him to prove that the duty has been paid upon the article. Now here, if you get a *primâ facie* case against the party, and raise the question upon the certificate of some competent person that he has examined the drug, you can call upon the defendant to make good his defence.

3944. Mr. *Otway.*] You are alluding to the metropolis, I presume?—I would take it as a general practice.

3945. Do you conceive that in small provincial towns you could find chemists whose certificate ought to be held valid?—I would not confine it to chemists; I would take a member of the College of Surgeons for instance, or some practical person at all events; or if there were no such person near, there might be some Government officer appointed who was capable of giving an analysis of it.

3946. Do you see any objection to the constitution of a central Board who would have that power?—That is a question to which I have not turned my attention.

3947. Viscount *Goderich.*] Can you suggest to the Committee any easy and simple remedy for a private individual against a person who sold him a counterfeit or adulterated article which would be within the reach of all?—Except by making a general Act of Parliament conformable to the general provisions of the Bread Act.

3948. And then allow the case to go before the justices?—Yes, and leave the justices to decide.

3949. *Chairman.*] In that case the prosecutor is not the individual who has purchased the adulterated flour, but the inspector, or the person acting under the magistrate's warrant?—He would be then.

3950. Under that Act as it is now?—Yes; it is not confined to the inspectors.

3951. At the present moment, if the Committee understand rightly, the person aggrieved may make an application to a police officer, stating that he has purchased at such and such a place adulterated flour, and that police officer so acting for this individual, and therefore on the part of the public also, may obtain a warrant and seize that flour, and conduct the prosecution before the magistrates?—That is according to the present Act of Parliament.

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3952. It does not necessarily fall upon the individual to right himself—Not at all.

3953. Mr. *Peacocke.*] You have been asked whether you thought in local towns you could find analytical chemists of sufficient skill; do not you think that that would be a question to be left to the local magistrates to determine?—No doubt.

3954. In cases which involve a larger amount of professional skill, do not you think there should be a Board in London to whom they might appeal?—Unless there were a local Board giving actual directions, I think it would be an inducement to the officers who were appointed rather to shirk their duty.

3955. What officers?—Whoever might be appointed as inspectors, if there were inspectors appointed.

3956. Mr. *Otway.*] Why?—I find it so in practice. We have ale-conners or tasters, who are elected by the Common Hall, and whose duty it is to go round to public-houses and taste their ale. I asked a publican the day before yesterday who had been in business 25 years, whether he recollected their coming to taste his ale; he said, "No, they come four times a year; I give them a shilling each time they come, and away they go."

3957. Mr. *Peacocke.*] That would refer to the fact whether or not you should have a Board in London instead of a local Board; that was not the point; the point that I was questioning you upon was this, whether or not you did not think that the magistrate of the local district before whom the case was brought, might determine whether the analytical chemist of the local district were sufficiently skilled, and in those cases where they did not deem them sufficiently skilled they might then have a Board of scientific men in London to whom they might refer the cases?—That is exactly how I intended to illustrate it.

3958. Do you consider it is absolutely necessary that you should have some, either Government interference or local Board interference?—I think it is highly expedient that it should be so.

3959. You do not think that the principle of *caveat emptor*, that the buyer should look out for himself, applies in this instance?—He would not understand in many instances the article he was purchasing.

3960. You think that a poor man, especially in those districts of London which come particularly under your notice, is utterly and entirely in the hands of the seller?—No question about it.

3961. And if it is left to him to protect himself he is incapable of doing so?—He never shows any great aptness in doing it.

3962. I suppose the expense and the loss of time would really almost put it out of his power to protect himself?—The great majority of the lower orders work by the day, and they do not like the idea of losing a day's pay upon a question of the adulteration of a quartern loaf we will say, because the penalty does not always go to the individuals.

3963. Should you say, from the communication you have had with the poorer classes of London, that there is a strong feeling on the subject of adulteration or not?—I have visited a great number of poor, even during the last winter, in order to relieve them, but I never heard any complaint upon that subject directly from them; I think I relieved as many as 600 different persons.

3964. Do you think they were ignorant of the fact that the articles of consumption were adulterated?—I have no doubt a great many of them were.

3965. Viscount *Ebrington.*] That indisposition to lose a day in complaining of a private grievance, which is in the main a public concern, is not confined to the poor, is it; you find it among the rich also?—In practice we observe that those who ought not to complain are sometimes the loudest in their complaints, and we are very often asked for expenses in summary convictions by persons whom one would scarcely suppose would condescend to take them.

3966. Is not there practically great reluctance on the part of individuals, whether rich or poor, to bestir themselves actively in the prevention and punishment of adulteration, though they may be perfectly aware that they, in common with the rest of the public, are suffering from it?—There really is very great indisposition, on the part of the respectable poor, to go to the police court at all.

3967. Is that confined to the poor?—No; I have observed it in cases in which they have been summoned for poor rates, where they have been the better class of poor persons.

3968. In this case, as well as others, you think that on the principle of the division of labour some public authority might be advantageously employed to do on behalf of individuals composing the public, that which as individuals they are unwilling, and find it inexpedient, to do for themselves?—Yes; I think they would all prefer that the onus should be thrown on a public officer, rather than on themselves.

3969. You see nothing more unreasonable in a public authority protecting the purity of food, and other articles in common use, than you do in the Government guaranteeing and insuring, as far as possible, the purity of gold and silver in the shape of money?—None whatever.

Mr. *Peter Mackenzie*, called in; and Examined.

3970. *Chairman.*] YOU are resident in Glasgow?—I am.

3971. I believe you are the Editor of a newspaper in that city?—I am Editor of the "Reformers' Gazette."

3972. Your attention has been called, I believe, at some period or other, to the question of adulterations in food?—It has.

3973. Has it been called to this question with regard to any particular article of food, or to articles generally?—If the Committee will allow me, I will make a short statement as to the way in which it came under my notice. Some few years ago, when great destitution prevailed in the West of Scotland, especially in the Highlands, a large sum of money, amounting to 50,000*l.* or 60,000*l.*, was devoted to furnishing provisions, including oatmeal, to the Highlanders; at that period information was given to me that a very large quantity of that oatmeal was adulterated in the grossest manner; a letter was sent to me, which I thought it my duty to publish in the paper with which I am connected, and the contractor who furnished the meal referred to in that letter, threatened me with an action of damages. I called upon the Glasgow committee to investigate this matter, believing that the statement was true; another threat was made to me, that if I ventured to make any inquiry, an action would be brought. I found myself entangled in a matter of very great public importance: I retained three of the most eminent counsel of the Scottish Bar to defend me in this threatened action, the Lord Advocate, the Solicitor-general, and the Dean of the Faculty of Advocates. I proceeded with my investigations; a committee, of which the Lord Provost of Glasgow was the chairman, heard the evidence that I adduced; and the committee was so staggered that they found it necessary to hand over this party, the contractor, to the procurator fiscal, in Glasgow. After a great deal of trouble, and no small expense incurred by me at that particular period, the Lord Advocate of Scotland, then Mr. Rutherfurd, ordered an indictment to be raised against this contractor, at Glasgow, Mr. Alexander Bannatyne. He was tried in the Court of Justiciary, at Glasgow, by the Lord Justice Clerk and Lord Wood; and after a long trial the jury found him guilty, and he was adjudged to imprisonment in the Bridewell of Glasgow, for a period of three months, and to pay a fine of 300 *l.* to Her Majesty.

3974. Will you state to the Committee what was the nature of the adulteration?—Yes; the oatmeal was mixed with bran and thirds, the common food for horses.

3975. Mr. *Wise.*] What is thirds composed of?—The refuse and shell of the wheat.

3976. Mr. *Sheridan.*] If the bran had not been there would thirds have been considered an adulteration?—I dare say it would. To my amazement, in that trial the accused party brought forward some of the principal millers in Glasgow to swear that it was quite a common practice in the trade, and therefore he was to be excused; and strange to say, though the jury found him guilty, they coupled their verdict with a recommendation to mercy, on the ground that it was a common practice in the trade.

3977. *Chairman.*] Was this indictment laid against him under any special Scotch law?—No; there was no special Scotch law to meet the case; it was laid at common law.

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3978. Have any other cases come under your own notice at any time?—Many cases have come under my notice, but as the saying is, what is everybody's business is nobody's, in Glasgow.

3979. You are aware that a very extensive system of adulteration exists; does it exist, to your knowledge, in any other things besides meal?—Almost everything you can name.

3980. Viscount *Ebrington.*] And in other places besides Glasgow the same principle applies?—No doubt of it; there is a common expression in Glasgow, that almost everything is adulterated except eggs and potatoes.

3981. *Chairman.*] Are you of opinion that the system itself is so extensively carried on that it is necessary for the Legislature to interfere for the purpose of putting down such a widely prevailing evil?—Certainly.

3982. You do not believe that the present state of the law is adequate for the purpose?—I do not.

3983. Viscount *Ebrington.*] You do not think that the individual interest of consumers is sufficient to protect the public against the influence of adulteration?—It is not.

3984. Or that in the case of the poorer classes, their intelligence on the subject of adulteration is sufficient to protect them?—Some of them scarcely know the difference, the adulteration is so minute and cunningly made up.

3985. Lord *C. Hamilton.*] I understand you to say, this prosecution was under the common law?—Yes.

3986. Supposing instead of finding only inferior portions of the same article, the husk, and so forth, they had found any chemical agent, or anything in its nature deleterious, would there have been a similar conviction, or could you by the Scotch law have proceeded under some other Act?—I am not in a condition to answer that question specially.

3987. You say that this practice of adulteration is general; I presume you are aware that in some instances actual deleterious agents are introduced?—Yes.

3988. In practice, would a conviction take place under the same process at the common law?—I think so.

3989. *Chairman.*] Would you not recommend a more simple and summary remedy against those who adulterate?—Yes.

3990. Have you considered any plan in your own mind; have you any suggestions to offer the Committee?—It has struck me that it would be a very wise measure if the officers of Excise in Scotland, who are active and intelligent men, and much to be relied upon, had the power to go into the mills where the meal is made up, and inspect them at periodical intervals.

3991. Viscount *Ebrington.*] I think you said that there was a common saying in Glasgow, that everything except eggs and potatoes was adulterated; do not you think it is desirable that there should be some protection in other things besides flour and bread?—Certainly.

3992. Would you employ the same agency to protect the public in the case of other articles, that you would in the case of flour and bread?—I speak particularly in reference to the article of oatmeal; that is the staff of life, as we say in Scotland.

3993. In principle you see no objection to the interference by public authority to protect the public from the loss, and in some cases the injury resulting from adulteration?—Quite so.

3994. Mr. *Peacocke.*] By the Scotch common law can you prosecute other cases of adulteration than that of flour?—I do not know that we could in our inferior courts; the case noticed arose in this way; this party, Mr. Bannatyne, had made a written tender that he would furnish a particular quantity of oatmeal; now they found that that oatmeal was mixed with bran and thirds, which is food for horses.

3995. Viscount *Ebrington.*] In short it was not oatmeal?—It was not genuine oatmeal.

3996. Lord *C. Hamilton.*] As I understand, there is no law in Scotland that could have punished this man for exposing it for sale; it was merely that, having bound himself by contract, he, for adulterating some of it, came within the law?—Quite so.

3997. He might have exposed that unwholesome food with impunity in Glasgow?—He might at that time.

3998. Did this conviction, to the best of your belief, create any change in the general practice of the meal trade in Glasgow?—I am afraid it did not.

3999. Had it a temporary effect?—It had at the time a temporary effect, but it was dispelled, I am sorry to say, because the party was liberated before the expiry of his sentence by some means or other; how I cannot inform the Committee.

4000. He had to pay his 300 *l.*, had he not?—Not one penny.

4001. Mr. *Moffatt.*] You have stated that in the city of Glasgow your belief is that there is adulteration in everything?—Yes; almost in everything.

4002. Will you be good enough to recite to the Committee a few of the articles in which you know, of your own knowledge, that adulteration takes place?—The last act of adulteration that I know of in Glasgow was a charge made in the Town's Hospital of Glasgow, that the drugs sent to the institution were adulterated.

4003. How was that discovered?—It was discovered by some inspectors in the house.

4004. Are there inspectors to the Town's Hospital?—Yes.

4005. They discovered the adulterations?—Yes.

4006. Therefore the drugs which had been sent there previously having been examined by them were not adulterated; so far as regards drugs, would it not be a natural consequence that this adulteration which they detected was an exception to the general rule?—I hope it was.

4007. Will you name some other articles in which you know of your own knowledge that adulteration takes place, besides the drugs sent to the hospital?—I do not know any of my own knowledge.

4008. You do not know a single article adulterated of your own knowledge?—It is the common report and belief.

4009. Do you eat oatcake?—Yes.

4010. Is that adulterated?—To some extent it is.

4011. Do not you think it is possible to get pure oatmeal to make cake in Glasgow?—It is quite possible.

4012. The adulteration is not so serious that it is worth your while to get pure oatmeal?—I like to get the genuine article.

4013. Why do not you get the genuine article, seeing that it is to be obtained in Glasgow?—I go to various parts of the country; for example, to the Highlands, and oatcake is presented to me of a very excellent quality, and in another place not far off, of a very inferior quality.

4014. Does it always follow that because oatcake is of a good quality in one part of the country, and an inferior quality in another, that it is owing to the oatmeal; may not there be some difference in the means of preparing the cake; does it follow that there must be necessarily impurities in the oatcake?—There may be something in the mode of cooking, certainly.

4015. Will you state some other articles you know to be adulterated?—Butter.

4016. What is that adulterated with?—I cannot well say what it is adulterated with; cases have been communicated to me, of parties having bought butter at the public bazaar in Glasgow, mixed with particular elements which I cannot well define.

4017. Has your own observation enabled you to detect butter adulterated?—It has not.

4018. Have you seen a specimen?—I have.

4019. Never at your own table?—At my own table.

4020. Or at that of a friend?—I have in the houses of friends seen butter really inferior, and, as I thought, adulterated.

4021. Would you not draw a very wide distinction between deteriorating an article and adulterating an article by mixing it with some foreign substance?—I would.

4022. Is it your belief that you have seen at the table of your friends, butter mixed with some foreign substance which was not butter?—It is.

4023. In what year was that; within the last two or three years?—I have seen it within the last two or three months.

4024. Is there any other article which you have seen within your own knowledge adulterated?—I cannot speak of any other article of food; bread I have seen very inferior in Glasgow.

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4025. Although you state that there is adulteration in everything in Glasgow, your own personal knowledge only enables you to express a belief that there is adulteration in oatmeal?—Yes.

4026. Lord *C. Hamilton.*] Who has the power of remitting a fine in Scotland inflicted on parties guilty of any offence?—It is very difficult to answer that question; in reference to the case I have mentioned, the magistrates doubted whether they had power to make any investigation.

4027. Then the same parties who inflicted the punishment withdrew it upon a doubt of their own power?—Not at all.

4028. How then?—Some application had been made to the Home Office, and the sentence was departed from.

4029. Was not the reversal of that decision very injurious to the public interest?—It was; it made a very great sensation in Glasgow at the time.

4030. Mr. *Wise.*] You have suggested that the department of Excise should be so remodelled, and their sphere of operation enlarged, that you could entrust to them great and important duties with regard to the inspection of those articles. Has it occurred to you that it would be necessary to define what adulteration is?—I should say, if the article of oatmeal is mixed with anything else than the corn, that is adulteration.

4031. Would you not find it necessary to distinguish between adulterations prejudicial to health, and adulterations which were simply commercially fraudulent?—Yes.

4032. How would you make those distinctions?—Indeed it is very difficult to say; I am not in a condition to answer that question.

4033. How could you give instructions to the Excise?—For example, if the Excise were permitted to enter the great granaries and mills where meal and articles of food were deposited, and to examine them at periodical intervals, that would cure it probably. Oatmeal was the main matter upon which I thought I was to be called upon to speak.

4034. Do you consider that the alteration in the character of oatmeal by mixing bran with it is prejudicial to health?—I certainly do.

4035. Are you not aware that a great number of people prefer bread with bran, what is called brown bread?—In this case there was more than bran and thirds, there was some other white stuff.

4036. What was that white stuff?—I have in my pocket one of the samples that were produced at that trial; it was some kind of white stuff or other which the local witnesses could not well define.

4037. A mineral substance?—I can show it to you.

4038. Was it terra alba or plaster of Paris?—Plaster of Paris, and chalk, and there was some sawdust in it.

4039. Do not you think that if the Excise were employed it would be necessary to define their duties very minutely, and to distinguish between adulterations which were simply fraudulent and adulterations which were injurious to public health?—That is a matter for the consideration of the Committee; I can offer no opinion upon it.

4040. Lord *C. Hamilton.*] What was the date of this conviction, and the name of the party?—The name of the party was Alexander Bannatyne; he was tried on the 29th of September 1847, for falsehood, fraud, and wilful imposition.

4041. *Chairman.*] In reference to questions which have been put to you by Mr. Moffatt, I would merely ask you this; you do not profess yourself to have analysed any considerable number of articles of food, or any articles whatever. You are speaking, if I understand you rightly, from general report, and that report comes to you, in a great measure, from your capacity as the editor of an important newspaper in Glasgow?—Yes.

4042. You believe the information you have received generally to be correct?—I do.

4043. Have you read any part of the evidence which has been given before this Committee?—I have.

4044. Supposing that evidence to be well founded, do you believe there is cause for the interference of the Legislature?—I do.

4045. I do not ask you whether you know, of your own knowledge, that those adulterations have been practised, but whether you think, upon the evidence before this Committee, the Legislature ought to interfere?—I certainly do think the Legislature ought to interfere.

4046. Mr. *Moffatt.*] Will you mention some portions of the evidence which has been given before this Committee, which induced you to come forward and state that everything is adulterated in Glasgow?—I beg to state that the proceedings of this Committee are known to the public over the length and breadth of the land, and people naturally talk about it. They say you can scarcely get an article now-a-days that is pure; everything is mixed. There is such a competition in trades of all kinds that the rogue undersells the honest man, and the honest man, in self-defence, is obliged to practise adulteration.

4047. Be so good as to state to the Committee some fact, either within your own knowledge or from actual positive credible evidence, of adulterations which do take place in Glasgow?—I can give no direct evidence to the Committee, because I never saw with my own eyes any adulteration going on. I speak in reference to common report and belief.

4048. Mr. *Otway.*] I presume you are in no better position than the members of this Committee, who may purchase thousands of things that are adulterated without knowing it?—Perhaps not, but in consequence of this great fraud, practised at that particular period in Glasgow, many individuals have come to me, and said they had been imposed upon; for example, with respect to tea, that has been adulterated; sugar has been adulterated, and so on; they do not take the trouble to go to the court, because the poorer classes in Glasgow cannot afford to lose the time to dance after those matters; if there were public officers to look after those matters, that would protect the public so far and do a great deal of good.

4049. Mr. *Peacocke.*] You are able to state, of your own knowledge, that there is a strong feeling against adulteration in Glasgow, especially among the poorer classes?—Most certainly.

4050. Do you think that the feeling of the poorer classes of Glasgow is to require some kind of legislative interference?—Most certainly. There was a case tried in Glasgow in reference to the adulteration of tobacco and snuff; the parties were pulled up by the Excise, and it was proved in those cases that the tobacco was chiefly made of cabbages grown near to the town of Airdrie, in Scotland.

4051. Mr. *Moffatt.*] What happened upon the discovery that the tobacco was composed of cabbage leaves?—The party absconded, and a large fine was awarded against him in his absence.

4052. Is it not the duty of the Excise, at the present time, to look after the vendors of tobacco to see that they are selling nothing but the genuine article?—I believe it is the duty of the Excise. It struck me as most extraordinary, that whilst they have the power to look after the vendors of tobacco, brewers, and so on, they have no power to look after the vendors of food.

4053. Are you not aware that the Excise are armed with very extraordinary power to detect adulteration of tobacco, and to bring the parties so abusing the public to speedy punishment?—The Excise have the power to bring a sailor who takes in his pocket a few pounds of tobacco, to summary conviction and punishment.

4054. But the Excise have the power to detect and punish the adulteration of tobacco at the present time?—Yes.

4055. Mr. *Sheridan.*] And the public are thankful that such a power exists?—No doubt.

4056. Mr. *Moffatt.*] You still believe, notwithstanding this extensive summary power, that the adulteration of tobacco goes on to a considerable extent?—That is my belief.

4057. Have you any evidence of that beyond the one case you have stated to the Committee?—No; I may state as the ground of my belief, that that case was brought up publicly, and it was rumoured that there were many parties doing the the same thing.

4058. Beyond mere hearsay and rumours, have you any fact which you can lay before the Committee?—I have no tangible fact to lay before the Committee in regard to the adulteration of tobacco.

4059. You said, I think, that there was a case of adulteration of tea brought under your special notice; in what year was that?—In 1849 and 1850.

4060. In what regard was that tea adulterated; what with?—I remember two or three people who used it, called upon me with samples; after this case of Bannatyne, they thought I was a sort of public protector; they said, "We have

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bought this tea at such and such a place, what shall we do?" I said, "I do not know what you can do; you have eyes in your head; go to some respectable shop, not into those places you have gone to."

4061. With what articles was the tea adulterated?—I cannot tell what it was adulterated with; they believed it was adulterated with the leaves of hawthorn and sloe.

4062. Are you sure that the tea was adulterated?—I could not swear that it was adulterated, because I did not see it adulterated.

4063. Did you analyse the tea?—No.

4064. Mr. *Otway.*] You have no knowledge of these matters as an analytical chemist?—No.

4065. Mr. *Moffatt.*] You have stated that some individual brought you a sample of adulterated tea; the Committee are anxious to know by what test you arrived at the fact of that tea being adulterated?—I think in one of the instances I put it into my mouth, and felt that the taste was quite different from the tea I am accustomed to drink.

4066. Would it not be quite possible that it might be different in flavour from the tea you usually had, and yet be tea?—No, I think not.

4067. You do not think there is so extensive a range in the varieties of tea, that you would be able to detect that the particular leaf which you put into your mouth was tea or not?—I found it was not tea, because the tealeaf crumbles; this was like the leaf of a cabbage, or the leaf of a flower.

4068. I understood you to say it was like the leaf of hawthorn; the leaf of hawthorn and the leaf of a cabbage present some difference, do not they?—Yes, they do, certainly; I have myself seen frequently things swimming on the surface of the cup, that could not be genuine tea.

4069. That is, tea at your own table?—Yes.

4070. Did you take that tea back to your teadealer, and charge him with your suspicions of its being adulterated?—I did not; I have seen it again and again, a hundred times over.

4071. You never inquired of the man of whom you buy your tea why there is this extraordinary appearance of small specks floating at the top of the cup?—Sometimes I may have done so.

4072. What did he say when you told him you believed it was adulterated?—He would say, as a matter of course, that it was good when he sold it to me.

4073. Did not you try some other dealer in Glasgow, when you suspected this tea was adulterated, by reason of the small particles floating at the top of the cup?—No; I generally stick to one or two respectable persons in Glasgow. I do not believe you could go into any shop in Glasgow, and not get some genuine tea; but it is a common occurrence in almost every house in Glasgow that you will see something swimming at the top of the cup, that cannot be genuine tea.

4074. Are you sure of that?—I believe so.

4075. Have you ever intimated your grave suspicions to the person of whom you buy your tea, that the tea he was selling was an adulterated article?—No, because it is such a common matter.

4076. Mr. *Wise.*] As a general rule, are you of opinion that this adulteration is carried out in such a scientific manner that the public are not able to judge of this adulteration of food?—Quite so; I believe the public are not able to judge, it is done so skilfully.

4077. It is quite a science?—That is my impression.

4078. Lord *C. Hamilton.*] I understood you to say that your activity in this case of the oatmeal led to your being consulted very generally?—Quite so.

4079. Was not it your opinion that general satisfaction was expressed, and in fact gratitude, towards you for having called public attention to this system of fraud?—Yes.

4080. Was not there following that expression a public wish that some measure should be taken to prevent those frauds?—A very strong and general wish that some measure should be taken by the Legislature to prevent such gross and glaring frauds.

4081. You do not anticipate that the interference of the police and Excise would counterbalance the benefit to be derived?—The benefit to be derived would certainly supersede any trouble the Excise might be put to.

4082. You say, on the part of your fellow citizens at Glasgow, you believe that to be the general feeling?—I do indeed.

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4083. Mr. *Moffatt.*] Are you deputed by your fellow citizens of Glasgow to make that statement before the Committee?—I am not. I was waited upon by Dr. Strang, the Chamberlain of the City of Glasgow, who knew the trouble I had taken in this matter.

4084. You do not wish to convey to the Committee that the citizens of Glasgow have deputed you to invite this Committee to pass measures to protect them in regard to having the goods inspected before they are supplied to the public?—Certainly not. I attend here on request merely as a private individual.

4085. Mr. *Wise.*] If there were a public meeting called in the city of Glasgow, what do you think would be the opinion expressed upon the subject of adulteration?—There was a public meeting, I think, called immediately after that case of Bannatyne's, and a committee was formed and a deputation appointed to wait upon the magistrates.

4086. Were any resolutions passed?—The magistrates found they had no power to act under any existing Act.

4087. Did they pass any resolution?—The authorities of Glasgow, in consequence of that case and the gross and glaring statement made in the court of justice that it was a common practice in Glasgow to mix the meal in the way I explained to the Committee, issued a proclamation against the adulteration of meal.

4088. Have you ever heard any public desire expressed for legislation upon the subject?—I have again and again.

4089. Mr. *Otway.*] Have you had any communications made to you, as the editor of a newspaper, by correspondents with reference to this subject?—I have.

4090. Complaining of adulteration?—Yes.

4091. Have you published those communications in your papers?—I have. I have had complaints made to me by farmers that the very seed they have bought in Glasgow has been mixed with articles different from what they thought they were getting; that rye grass was mixed with other things, and I have published many of those communications.

Dr. *Charles William Bingley,* called in; and Examined.

Dr. *C. W. Bingley.*

4092. *Chairman.*] YOU are an Analytical Chemist, I believe?—I am Professor of Chemistry to the Medical Institution at Sheffield; my certificate as lecturer there is recognised by the Apothecaries' Hall and the Royal College of Surgeons. I am also appointed professional chemist, under the provisions of an Act of Parliament, by the corporation of Sheffield, to test the purity of the gas there. That is an Act of Parliament for the amalgamation of the gas companies there.

4093. In the exercise of your profession, has your attention been directed at all to the existence of adulteration in articles of food?—Yes, to several, both in agricultural produce, in drugs, and in articles of food.

4094. Will you state to the Committee, in as general terms as you well can, the result of your experience?—One case would be in the matter of agricultural produce. With respect to linseed dust, which is used as food for cattle, I once had a case where the article was adulterated to the extent of 20 per cent. with what was supposed to be warp-earthy matter, and it was sold for 10 *l.* per ton. There is another article, called nitrate of soda; the selling price at the time was 24 *l.* per ton, but it was not worth above 30 *s.*, being adulterated to the extent of 56 per cent. with common salt. I had another case, in which a quantity of nitrate of soda was sold at 18 *l.* per ton, that contained 40 per cent. of common salt; another case contained 20 per cent.

4095. Is there any other important article you can refer to?—Sulphate of ammonia I have found adulterated, and guanos and bones, adulterated with ground oyster shells, and dissolved bones, matter sold for that which has been adulterated with carbonate of lime, and common mortar or sand.

4096. With respect to articles of food, drinks, and drugs, have you any evidence to give to the Committee?—In drugs I find scammony adulterated with chalk, and iodide of potassium I have found adulterated with carbonate of potash. Calomel I have found adulterated in one case with a considerable portion of alumina, a very fine kind of pipeclay. Quinine I have found adulterated with chalk and starch, and also sulphate of lime with silicious matter and carbonate

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of magnesia. I have found one case adulterated with carbonate of lime and sulphate of magnesia, and I have found it in one case adulterated with sulphate of soda.

4097. Without going through a list, is it your opinion that very great adulteration exists in drugs?—I have met with it occasionally; I do not think with respectable druggists that the cases of adulteration are so extensive as they were some years ago.

4098. You believe an improvement has taken place?—I believe an improvement has taken place within the last five or six years.

099. Can you trace that improvement to any special cause?—I think the regulations that were made in reference to the Pharmaceutical Society have had a beneficial effect, by enabling some of the respectable druggists to ensure a greater degree of purity amongst some of their drugs; but it does exist, I do believe, to a great extent amongst the lower and inferior druggists.

4100. You believe that amongst respectable chemists and druggists pure drugs are to be very commonly found?—I believe they are.

4101. There is a class of druggists, small dealers, who systematically adulterate their articles?—They do; I have seen cases where butter has been adulterated with large quantities of water and inferior kinds of butter, and with lard.

4102. Lord *C. Hamilton.*] Can you give the Committee any estimate of the difference in price between butter and lard?—Butter would be worth about 1 *s.* 6 *d.* a pound in some cases; we have had butter selling at 1 *s.* 6 *d.* a pound for many months at Sheffield, and we have had it from 1 *s.* 4 *d.* to 1 *s.* 6 *d.* I believe the general average price of lard has been 10 *d.* The water would be present in large quantities from bad management in making it; persons in many cases, in making it up, do not get it sufficiently beaten or put together.

4103. Mr. *Moffatt.*] What per-centage of water do you find in butter?—In some cases 10 or 12 per cent.

4104. Would you deem that adulteration?—Perhaps not intentionally an adulteration.

4105. Lord *C. Hamilton.*] Is not soda, and some other things, mixed with butter, to make it absorb more water?—I believe so; I never met with instances to lead me to suppose so.

4106. *Chairman.*] Are there any other articles which you wish to refer to?—Pepper, I have found adulterated.

4107. Black pepper?—Black and white pepper, and chicory.

4108. What is chicory adulterated with?—I found a case in which chicory was adulterated with very fine peat dust; bog earth.

4109. Mr. *Moffatt.*] How did you ascertain that it was adulterated with peat dust?—The fact was that the party who applied to me about it had reason to suspect the adulteration of the chicory with peat dust.

4110. What application did he make to you in regard to the adulteration of the chicory with peat dust?—One that led me to suppose that peat dust was employed for the purpose.

4111. Did you analyse that sample?—I did not analyse that sample, but I had reason to suppose it was done.

4112. You did not analyse it, so as to be able to say that peat dust was mixed with the chicory?—No.

4113. *Chairman.*] Is that the only adulteration of chicory you have met with?—The only adulteration of chicory I have met with.

4114. Is there any other article?—Lime juice. I have had samples of lime juice which I have found to contain sulphuric acid and tartaric acid, and I have also found pyroligneous acid obtained by the distillation of wood, and it is in fact the acetic acid which was present.

4115. Those acids I presume are quite ineffective for the purposes for which lime juice is used on board ship?—I believe so.

4116. You would not conceive them to be a proper substitute for the lime juice?—Certainly not. I am not prepared to say what the effect upon the constitution might be. I conceive sulphuric acid would be injurious in that case, and also tartaric acid would not answer the purpose for which lime juice was intended. Lime juice is dependent for its efficacy upon the presence of citric acid, and where that is replaced by an inferior kind of acetic acid I consider it would be injurious.

4117. Had

4117. Had you many cases of adulteration of lime juice?—I had three cases.

4118. Mr. *Moffatt.*] In what period have you discovered those three cases of adulteration of lime juice?—Within the last six months.

4119. Your experience as an analytical chemist extends over how many years? Ten.

4120. And in ten years you have discovered those three cases?—Yes.

4121. Lord *C. Hamilton.*] Have you tested a great quantity of the article?—Only those three samples; one contained sulphuric acid and tartaric acid, the the others contained acetic acid, or pyroligneous acid, an inferior kind of it.

4122. Mr. *Otway.*] Am I to understand you to say that in the only cases you have tested you found adulteration?—The only cases I tested I found were adulterated.

4123. *Chairman.*] Under what circumstances did those cases come before you?—They were given to me by a merchant in Liverpool; a shipowner.

4124. Mr. *Moffatt.*] For the purpose of ascertaining whether they were pure or not?—Yes.

4125. That merchant having a suspicion that they were impure?—Yes; also informing me that he believed there was very little pure lime juice sold in Liverpool. In fact, when his own servant was sent out to fetch the article he was told that I wanted, some of the lime juice, he laughingly observed, "I think it will be an impossibility to get any pure lime juice in Liverpool that is sold for ships' use."

4126. Did you ever purchase any lime juice in Sheffield?—No.

4127. Do you believe it is equally difficult to get pure lime juice in Sheffield as it is in Liverpool?—I imagine it is.

4128. *Chairman.*] The consumption of lime juice in Sheffield would be small?—Yes.

4129. Mr. *Moffatt.*] Does Sheffield obtain its lime juice from Liverpool or from London?—I do not know.

4130. Viscount *Goderich.*] Is there any consumption of lime juice at Sheffield?—Not much; it has been prescribed sometimes as a specific for gout and rheumatism.

4131. Lord *C. Hamilton.*] The mixed qualities of this article which you describe would be inferior to the pure article?—Very much so.

4132. A ship's crew having recourse to lime juice to prevent scurvy, would suffer very much from the use of this inferior article?—It would be my opinion that it would be so; the opinion of a medical man would be such; I am not a medical man.

4133. You being a chemist, are aware that the effects of those adulterated articles are not analogous to the effect produced by the pure article?—Certainly not; I should conceive they would be prejudicial.

4134. Lime juice is not generally used, except in cases of scurvy on board ship?—It is, I believe, prescribed in some of the hospitals for cases of gout; it has been extensively used in some hospitals.

4135. But the great demand at Liverpool was for shipping purposes?—The great demand at Liverpool was for shipping purposes; lime juice, I suppose, would be obtained from the marine-store dealers, who supply the article for the purpose of ships' use.

4136. Mr. *Otway.*] Lime juice being very extensively used during a long sea voyage, is it not essential that it should be pure?—Yes.

4137. Viscount *Goderich.*] Have any cases of adulteration of flour been brought under your notice?—Yes.

4138. Will you state them to the Committee?—I have had several cases in Sheffield of adulteration of flour that have been brought to me by private individuals, in which no ulterior proceedings have been had; the question has been asked whether such and such a sample of flour was pure or impure.

4139. *Chairman.*] In those cases, what was the result of your examination?—I had several cases of that kind in which I found the flour adulterated, not with any deleterious substance, but with foreign meal; meal, not wheat flour; but in three cases to which the attention of the Sheffield police was called, and upon which informations were laid, after laying the informations they brought me samples of the flour to analyse, and I found them adulterated with gypsum and with a portion in one case of bone-dust.

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4140. Viscount *Goderich.*] Was one of those cases that of Mr. Crossby?—No; it was not Mr. Crossby's case.

4141. *Chairman.*] You know that case I presume?—Yes, I was concerned in it. At the hearing of one of those cases I have referred to, a conviction could not be had, because in the opinion of the bench the time had elapsed in which, from the statutory provisions of the Act of Parliament, the information ought to have been laid. It appears that the information should be laid within 48 hours after the seizure. The seizure in this case was made of the flour and the flour was brought to me to analyse, and owing to the time that was employed for the analysis the 48 hours had elapsed. I was not, nor were the police at the time, cognizant of this fact.

4142. Had you been aware of that, would there have been time to analyse it within 48 hours?—No.

4143. The time was not sufficient for the purpose?—Not by several days; there were three or four informations pending, and it would have been impossible to have analysed them in time to have done justice to them. The magistrates heard the case, but on consulting the Act of Parliament for the purpose of imposing the penalty, for the case was proved, and a conviction would have been had, they then discovered the informality of their proceedings, and the consequence was, that no conviction could be had.

4144. Mr. *Sheridan.*] That was one of the three informations?—Yes.

4145. Mr. *Otway.*] Was the case persevered in, or was it only on conviction that they discovered they could not impose a penalty?—The case was not persevered in; it was stated by the bench to the party, that they hoped it would be a sufficient warning, and that the publicity which would be given by the case being reported in the newspapers would put a stop to it.

4146. Mr. *Sheridan.*] Under those circumstances no conviction could be obtained, if you say that the complaint must be lodged within 48 hours?—According to the provisions of the Act it appears so.

4147. Mr. *Otway.*] Or does not it say, "or such other time as the magistrates may deem reasonable"?—I think, as a matter affecting the legal question, I had better read the clause from the book just given to me; the Act is the 6th & 7th of Will. 4, c. 37, which extends to all parts of Great Britain, except London; section 31, which refers to the limitation of information, says, "No person shall be convicted of any offence under this Act unless the complaint is made within 48 hours after the offence shall have been committed, or within such reasonable time as to the justice or justices shall seem fit, except in cases of perjury." By section 32, the application of the penalties imposed by section 17 is prescribed.

4148. *Chairman.*] Did not the justices hold that the alternative applied to those cases?—They did not in those cases; the case was dismissed.

4149. Mr. *Moffatt.*] According to what you have read, it would appear that the complaint must be made in 48 hours; it does not appear that the proof must be given at the same time?—No. I believe the flour was seized by the police, and when I had made the analysis and reported to the superintendent of police, he then caused the information to be laid.

4150. Had he caused the complaint to be laid at the time that he seized the flour it would have complied with the Act of Parliament, and the magistrates would have afforded you time to have proved the adulteration by analysis?—That I suppose would have been the case.

4151. Mr. *Wise.*] Did not the magistrates consider that due diligence had not been used; that time had been lost by the parties who ought to have prosecuted that inquiry?—No remark of the kind was made.

4152. Are you not aware of the grounds of the refusal of the magistrates?—No.

4153. Viscount *Goderich.*] Can you tell the Committee anything about the case of Mr. Crossby, of Rotherham?—I was concerned in that case; I analysed the samples of flour along with Dr. Odling, of Guy's Hospital, and with Dr. Allen, that were brought to me. There were two informations laid in that case, and one of the samples of flour was said to be pure; the samples of the other specimen of flour that I had were decidedly adulterated with a large amount of gypsum. But matters came out in evidence that led one to infer that there was a difference in the samples. I observe you have a copy of the letter which appears to have been written by Dr. Odling. I am acquainted with the circumstances connected with the letter, and it would appear from that that Dr. Odling

Odling had a sample of the flour previous to the one that I had, from which it would appear that it was a specimen of pure flour, and not flour that was alleged to be adulterated.

4154. That relates to matters that came out in evidence?—That I believe was stated in evidence on the case of appeal.

4155. It was stated on behalf of Mr. Crossby that there was reason to suspect that those foreign substances had been added to the flour after it was seized?—That was the appellant's ground for appealing against the conviction.

4156. Have you any reason to think that that opinion was justified?—I really have no reason to suppose anything of the kind, further than from the evidence which you have before you; I was not aware at the time that Dr. Odling had had a sample previous to the samples in which he found large quantities of gypsum which could have been picked out of the sample, and were apparent to the naked eye; there was one sample in which there was four per cent. of gypsum.

4157. Dr. Odling alleges in this paper that the flour was adulterated in so clumsy a manner as to be evident to everybody?—Those analyses were made unknown to each other, and we each of us remarked the same circumstance, that there were large portions of gypsum that were apparent.

4158. Can you state to the Committee who was the person who seized that flour?—A Mr. Bland, who is high constable of the wapentake of Stafforth and Tickhill, in the southern division of Yorkshire.

4159. Is he a person whose character has hitherto been good?—I suppose so.

4160. Mr. *Otway.*] You reside at Sheffield chiefly?—Yes.

4161. The population there is chiefly of the working classes, is it not?—Yes.

4162. Have you reason to believe that in the articles supplied to that class of the community very extensive adulterations take place?—I believe there are very inferior articles sold; I do not think that the cases of adulteration are numerous; with mineral ingredients, for instance.

4163. You do not think the articles are deleteriously adulterated?—I do not.

4164. Not the general articles of consumption?—As regards flour, I do not.

4165. I mean as regards drugs and other articles?—As I have stated before, I believe the inferior class of druggists do keep very inferior articles.

4166. Mr. *Sheridan.*] Are those the druggists to whom the poor apply generally?—Yes, I should say so; a poor man would rather go to an inferior-looking shop than he would to one that had a first-rate appearance.

4167. Can drugs be purchased at a cheaper rate at a poor shop than at another chemist's?—No, I do not think they would generally.

4168. They would pay the same price?—They would pay the same price, no doubt.

4169. Mr. *Otway.*] For a worse article?—Yes.

4170. You have some experience, I believe, in the neighbourhood of Sheffield and its surrounding district?—I have.

4171. Is it your opinion that flour and other articles of general consumption there are much adulterated?—I do not think flour is much adulterated.

4172. Other articles, drugs and groceries?—I do not think that flour or drugs would be adulterated to the great extent there, as I have been informed is the case in Manchester; but the cases would be chiefly confined to the lower class of druggists. I once had an opportunity of seeing a case which was brought before the local authorities in Sheffield, relative to a quantity of inferior drugs which had been supplied to the poor-law union by druggists in the town; and there were a great number of them that were very far from being genuine; indeed they were not; opium for instance. I examined them with Mr. Heywood, who was a professional chemist in Sheffield, and we could not detect a grain of morphine, perhaps, in some of the samples of opium that were sold.

4173. Viscount *Goderich.*] Were those drugs bought at extremely low prices?—Yes.

4174. Mr. *Otway.*] They were contracted for?—Yes, and were sold at a price at which they could not be obtained from the wholesale druggists.

4175. To whose inspection were they submitted when they were taken to the union?—To the inspection of Mr. Heywood.

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4176. Who is Mr. Heywood?—He is dead now; he was an analytical chemist in Sheffield.

4177. Viscount *Goderich.*] Who submitted them to Mr. Heywood; the Board of Guardians?—The Board of Guardians, I suppose.

4178. Mr. *Otway.*] Is that the usual process, or what is done in case there is suspicion that those drugs are adulterated?—I am not aware of the process.

4179. Mr. *Moffatt.*] How long ago is that?—Five or six years.

4180. Mr. *Sheridan.*] Would not the medical attendant be the person to make the contract, not the Board of Guardians?—I am not able to say under what circumstances it arose; I was at the time a friend of Mr. Heywood's; the investigation was merely made, as far as I was concerned, *con amore.*

4181. Viscount *Goderich.*] You are sure that the price was extremely low?—I heard some of the prices, and I have a distinct recollection of the circumstance, that the prices were too low to lead one to suppose that it would be possible to purchase them of the brokers if they were genuine.

4182. Lord *C. Hamilton.*] Were tenders advertised for by public advertisements?—I have seen such tenders.

4183. Did they limit the prices to that low scale?—I cannot say.

4184. Mr. *Moffatt.*] Have you ever heard of any other instances of adulterated drugs being supplied to poor-law unions, save the one you have stated to the Committee?—No.

4185. Mr. *Sheridan.*] You do not recollect the circumstances under which it came to your notice?—No.

4186. Mr. *Otway.*] You only heard of it through your intimacy with Mr. Heywood?—Through my intimacy with Mr. Heywood; I assisted him in part to make the analysis.

4187. Viscount *Goderich.*] How long after you made the analysis with Mr. Heywood did he die?—About two years, I should think.

4188. You would not have had opportunities, such as those alluded to by Mr. Moffatt, of having those circumstances brought under your notice after Mr. Heywood's death?—No, the thing was disposed of.

4189. Mr. *Sheridan.*] What became of the drugs that were supplied to the union in the case you allude to?—I do not know.

4190. Do you know whether they were returned?—I believe they were; I am not at all aware what was done with them.

4191. Mr. *Otway.*] You do not know whether this is the fact: that the medical officer of a union may contract for a supply of drugs, and such contract having been fulfilled, the drugs may be given to the patients before their having been submitted to any inspection?—That I may almost answer with certainty; they would not be submitted to any inspection.

4192. Lord *C. Hamilton.*] Do you know if the medical officer obtains any advantage by getting the drugs cheap?—No, I should apprehend not; I believe he has no interest whatever.

4193. Mr. *Wise.*] Are you not aware that medical men are paid so much a year for attending to the poor people in the unions?—Yes; I believe they do not provide the drugs.

4194. *Chairman.*] I want to refer to the case of this man at Rotherham, without any reference whatever to Mr. Bland's character, which may be, I dare say, very high; do not the provisions of the law as they now stand, afford an opportunity for fraud being practised upon the honest trader by the person who selects the samples for analysis?—I should say so; it is my opinion, from the circumstances that were brought to my notice at the time of this case of Crosby's, that we had not legislative or statutory provisions to enable both parties to have samples properly taken, and inspected, when any substance was suspected to be adulterated.

4195. Under the present system, you think it a very possible case that samples may be taken from the trader's shop, and that the person so taking them may adulterate them before they are analysed?—I do; I think there are not sufficient statutory provisions to check or protect the accused party in case of information of this kind. There ought in my opinion to be some means of having samples of suspected articles properly sealed up in the presence of indifferent parties, who may have means or opportunities afforded to them to analyse them.

4196. Would this method meet the case, that the person seizing the samples should be required to place the samples in two different parcels, one of them sealed

sealed by himself, another sealed with the seal of the trader?—That would possibly answer the case; it would in fact be some procedure of that kind which would meet the circumstances of the case.

4197. In that case, the parcel sealed by the trader would be in the possession of the person who laid the information, and the inspector's seal would be upon the parcel retained by the trader?—Exactly so. I believe in this case, and no doubt the same thing would occur in a great number of other cases, the party had his goods seized when his shop was full of customers, and he was naturally very indignant at the circumstance; other persons would be affected differently, and would be afraid; it was stated in the court at Pontefract that an offer was made to him by Mr. Bland to take a sample; he was very indignant with Mr. Bland, and told him he might do what he liked, and he took them away. I believe in many cases, if the party seizing them in the presence of reputable witnesses, could seal up the samples in such a way that they might afterwards be referred to in evidence, as being the untampered genuine article seized, it would meet the circumstances of the case.

4198. Are there any other defects in the law affecting the adulteration of flour and bread, which from your experience in these cases, has struck you as deserving remedy?—All the ingredients are mentioned in the Act of Parliament of which bread is to be composed. By the 6 & 7 of Will. 4, the Act referred to previously, a person may make bread of wheat, barley, rye, oats, buckwheat, Indian corn, peas, beans, rice or potatoes, or any of them; and with any common salt, pure water, eggs, milk, barm, leaven, potato or other yeast; there are several inferior qualities of articles, not wheat, which I have mentioned, which would be deleterious.

4199. Mr. *Wise*] Are you not aware that there is a very important proviso attached to that permission, that in cases of wheaten flour being mixed with the other articles which you have named, that a baker is bound by law to put a large Roman M upon his loaf, signifying that it is mixed?—I am not aware of that, and I believe it is not generally known. How would it be, in case of selling another article for wheaten flour, because I have had a case in which a considerable quantity of barley meal was sold for flour.

4200. *Chairman.*] Supposing that proviso to exist, it would modify your opinion very materially as to the particular clause you refer to?—Certainly.

4201. Mr. *Wise.*] You have stated that the magistrates dismissed the complaint, or the charge, which was made in those three cases of adulteration of flour; can you state to the Committee what the magistrate said on that occasion; did not he assign some reason for dismissing the case?—He assigned no other reason than the fact of the information not having been laid within 48 hours of the time when the seizure was made.

4202. Did you state that no great time elapsed before the application was made to the justice, after the flour was purchased?—There was, I believe, a week elapsed.

4203. Not more than a week elapsed between the purchase of the flour and the information being laid?—About a week, to the best of my remembrance.

4204. Are you quite certain that it was not two weeks or three weeks?—At the very utmost it was not ten days.

4205. Have you inspectors of meat, and of weights and measures, under the Nuisances Removal Act, at Sheffield?—Yes.

4206. Do not you think some of the parties engaged in those inspections might also inspect bakers' shops and millers' premises?—I do not think they could.

4207. It would require some person specially qualified, you think?—I think the case we had at Sheffield lately, affecting Mr. Crossby, is a case in point. It would be impossible for such a person to inspect. Justice would not be done.

4208. If an analytical chemist were appointed for the district, the inspector might refer cases to him, and bring him forward as evidence?—Certainly. I am quite certain that no ordinary inspector of meat, such as we have in Sheffield, or, in fact, I may say briefly, that no person but a professional chemist would be able to decide whether a person was accused legally or not.

4209. Then, if this law with regard to bread were altered, to what period would you extend the power of application to a magistrate; it is now limited to 48 hours?—I would limit it to such a period as would answer the purposes of the analysis.

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4210. *Chairman.*] How long would that be, in your estimation, in ordinary cases?—A week would cover the analysis.

4211. Mr. *Wise.*] Might not a case arise of a person buying a sack of flour and its not being used for a week; on baking the bread the cook or the servant might discover that the bread was very heavy, and attention might be directed to it; how would you deal with a case of that sort?—I think it would be safer to give the length of time I have mentioned, than to run the risk of a person being falsely accused by too hasty proceedings, because the person suspected he had got bad bread. An unskilful cook would often make bread look much worse than any adulteration of flour would make it.

4212. *Chairman.*] Is there any other parts of the Act to which you wish to refer?—No.

4213. Is there any other article to which your attention has been drawn, which you think the Committee should take notice of; have you had beer or ale, or anything of that kind, under your examination at any time?—No.

4214. Mr. *Sheridan.*] Do you know by whom the medical attendants generally in the union in which you reside, are supplied with drugs?—I do not; with the exception of the case I have alluded to, I have not had any instance brought practically before me.

Mr. *John Postgate*, called in; and further Examined.

Mr. *J. Postgate.*

4215. *Chairman.*] AT your last examination before the Committee we were under the necessity somewhat of hurrying to the conclusion of your evidence, and the Committee are anxious to give you an opportunity of completing your evidence; on many points upon which you gave evidence on the former occasion the Committee have had very abundant information in confirmation of what you stated; and they desire you, as far as you possibly can, to confine your evidence to those adulterations which have come immediately under your own observation, and not to go into too many particulars even with regard to those?—In my former examination I should have proceeded to state the objects for which agents are used to adulterate; the first is to increase the bulk and to give weight, and to make more of the substance by the addition of substances of inferior value; as an example, I will give the addition of flour to mustard, of excess of pearl ashes to cyanide of potassium, and of ground rice to pepper; the second object is, to restore colour after deterioration; as examples of this, I would give the addition of turmeric to mustard after it has been reduced in colour by the addition of flour, and the addition of annatto to watered milk. The third intention of adulteration is to impart pungency, so as to make the adulterated article to resemble the genuine one; as an example of this, I would mention cayenne to adulterate mustard and pepper, and alum in acidulated drops, instead of cream of tartar. The fourth intention or object of adulteration is, to give a superior appearance to inferior articles; for instance, alum to unsound wheat and flour, and plaster of Paris to flour. The fifth object is, to give a fictitious colour to different commodities, for instance; copperas to make pickles green, and burnt sugar to acetic acid, to make it resemble malt vinegar. I may mention the prevalence of adulteration in towns; I found at Lincoln, plaster of Paris in flour, or terra alba and sulphate of lime.

4216. Mr. *Moffatt.*] Where did you find that adulteration?—In samples that were produced at a meeting I was attending.

4217. Mr. *Gregson.*] Was that article adulterated in the baker's hands or the flour dealer's hands?—Those were samples given to me by a public officer, which were seized at a baker's. A quantity of pig meal was given to me which was adulterated with sulphuric acid; and two or three pigs had been poisoned by the substance. At the Lincoln meeting three or four samples of coffee were produced, which were all found to be adulterated, and those samples were purchased as pure coffee, and at the price of pure coffee. Vinegar was found to be adulterated with sulphuric acid; mustard was adulterated; lozenges contained an earthy substance; and carbonate of soda, it was found, did not effervesce upon the addition of sulphuric acid. I may state to the Committee that the meeting was perfectly unanimous (the mayor was in the chair) as to the necessity of legislative means being adopted to stop the practice of adulteration. At Dudley, at a recent meeting, samples of coffee which were obtained were adulterated; in fact, the

druggist

druggist who purchased those sample is himself in business in Dudley, and he stated, that when pure coffee was required in Dudley the trade stated that that was the coffee that they had to sell, and that they had none else. I think three or four samples were examined.

4218. Was it labelled "mixed coffee"?—Some was labelled and some was not labelled; the majority of the samples were unlabelled. The vinegar I found to contain an excess of sulphuric acid.

4219. Mr. *Moffatt.*] What per-centage of sulphuric acid?—I could not say; it was not tested. Mr. Hollier was in the chair, and he made a statement to me, which he begged me to mention in reference to some drugs which were supplied to an institution at Dudley. He pointed out that a tender sent in to supply the drugs was positively under the price current at the time. The tender was accepted, and that gentleman produced samples of adulterated drugs at the meeting.

4220. Mr. *Sheridan.*] To what institution were those drugs supplied?—I believe it was a dispensary; I am not certain. Mr. Hollier was, I believe, one of the committee of the institution, and he told me that the tender was sent in to supply the committee with drugs under the price current.

4221. Mr. *Moffatt.*] Is Mr. Hollier a druggist?—Mr. Hollier is a druggist. At Scarborough I found the bread much adulterated, and producing a painful state of the stomach, named gastrodynia. One loaf a medical man informed me contained 4½ per cent. of alum, and he had two cases of dyspepsia in consequence of the consumption of that bread.

4222. Was that discovery the result of an actual analysis?—Yes; I tested several articles there. At the Leeds meeting I found the samples of coffee adulterated, and the vinegar and mustard.

4223. *Chairman.*] Has the general result of the examinations which you have conducted in various large towns in the kingdom been to convince you that adulteration prevails very extensively?—To make a rough estimate, I should say that perhaps two-thirds of the articles have been found to be adulterated in the towns that I visited. I may enumerate the towns of Leeds, Bradford, Wakefield, Birmingham, and Wolverhampton.

4224. Mr. *Sheridan.*] Under what circumstances did you visit those towns for the purpose of ascertaining those facts?—I was communicated with by gentlemen; sometimes by professional gentlemen, and sometimes by mayors, asking me if I would assist them in holding meetings to test the commodities, which I did generally.

4225. *Chairman.*] You are well known to be a person who has devoted a good deal of attention to the question of the adulteration of food?—Yes.

4226. In point of fact this Committee may be said to have originated in communications made by yourself to me, with a view to a legislative inquiry?—Certainly.

4227. That is the ground upon which you have been consulted?—Precisely.

4228. Mr. *Gregson.*] Am I to understand you to say that two-thirds of all the articles that you have mentioned were adulterated?—Yes; those were samples obtained by other persons, not sent by myself. I told the persons to purchase them from any shop, and not to omit the respectable shops. I have here a statement with regard to the price of milk of sulphur which I should like to bring before the Committee. Common milk of sulphur, which is the milk of sulphur ordinarily sold, is 28*s.* a cwt.; the pure milk of sulphur is 75*s.* a cwt. I found recently 13 grains of alum in half a pound of bread, and a gentleman who consumed it was unable to follow his business the next day. I strongly advised him to prosecute the party, but he felt reluctant to do so. I have reason to believe that the use of alum in bread is very injurious indeed. I had, not long ago, an attack of fever, and being out of bread I sent to a baker's for a loaf of bread, at the time that I was under the influence of medicine. I know that this bread contained alum, and it positively checked the action of the purgative medicine.

4229. Where was this?—In Birmingham, within the last two months.

4230. Mr. *Moffatt.*] Are you sure that it was the bread that checked the operation of the medicine, and not some other article of food which you had taken?—I am as certain that it was the bread as I can be.

4231. Might not it have been some other food?—No, for at that time I took nothing but tea. Perhaps the Committee will allow me to mention something with regard to the butter which is imported into this country from Ostend; I found

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that the butter was largely adulterated with flour and water; even a retailer in Birmingham, who paid a very good price for it, had been himself deceived; he produced the samples at the late Birmingham meeting.

4232. What per-centage of water was there in that butter?—I found that one pound contained an ounce of water, and half an ounce of flour.

4233. Do you consider the presence of water in butter an adulteration?—Certainly not; it is naturally present in the butter, and sometimes a quantity of salt is added to the butter, which makes it retain more water: had the butter become deficient in weight it might have been seized in the market-place.

4234. You do not consider the presence of water in butter an adulteration?—Certainly not.

4235. Do you consider the presence of salt in butter, which is imported from Holland, an adulteration?—Certainly not.

4236. The butter was sold in the state in which it was imported?—Yes.

4237. Therefore the adulteration did not take place in this country, whatever it was?—No; the seller of the butter went to the expense of having the butter analysed.

4238. *Chairman.*] I believe you have turned your attention to the consideration of remedies which you think would be effectual to prevent adulteration?—Yes; I suppose the fact of adulteration to be established, and I recommend that an Order in Council prohibiting injurious, pernicious, and fraudulent adulteration should be issued at once; that a special Act of Parliament should pass, to come into operation six months afterwards; that all injurious, pernicious, and poisonous adulteration should be declared illegal, and the sellers held responsible; that some central body, for instance, the Board of Health, should issue from time to time instructions as to what constitutes injurious, pernicious, and poisonous adulteration; that an officer should be appointed to examine and test commodities, articles of food, and drugs; and perhaps this officer should not be named an inspector, as there seems to be a great objection to that word, but an analyst, analyser, chemist, or custodier of the public health. With regard to his qualifications, I should state that he should be practically acquainted with genuine articles; that he should, secondly, be capable of scientifically examining, testing, and analysing them; that he should, thirdly, be acquainted with the effects resulting from the use of adulterated articles. Perhaps a medical man who has been educated in chemistry, and passed a special examination to prove his ability to detect adulteration, would be the most suitable person; that the appointment of the officer should be by the local authorities under the instructions, and subject to the approval of some central body, that he should not be removable by the local authorities, and that complaints shall be forwarded by the town clerk; and that he would be held responsible to the public from the publicity given to the proceedings. Then, with regard to his duties, they would consist, first, in purchasing or causing to be purchased samples of commodities for analysis; secondly, that he should examine articles sent by the public and traders suspected to be adulterated. In those cases I would suggest that fees should be paid, to go into the borough fund. Traders could then have no excuse for selling, unknowingly, adulterated articles. From the articles to be examined a sample should be taken and placed in the care of the town clerk, to be locked up and produced in case of a dispute respecting the analysis. The third duty of the officer would be to give evidence; and fourthly, to inspect mills, bakeries, confectioners', druggists', and other shops for pernicious adulterations, after previous conviction. Fifthly, fraudulent adulterations could be suppressed by public proceedings by a public prosecutor, or by the officer appointed to check adulteration. The analyser could examine linen, cloth, and silks, and if found to be adulterated, a prosecution could be instituted through the public prosecutor. Sixthly, a salary should be fixed, adequate, and not dependent on the prosecutions. I would recommend that the magistrates should have summary jurisdiction to fine and imprison, according to the nature of the offence. In cases of doubt and difficulty respecting the analysis, the magistrates should call in another analyser to analyse the sample locked up. Power should be given to the magistrates to order inspection after repeated conviction. There should be a power of registering traders, and registration should be refused to those traders who have been convicted so many times of having sold adulterated articles, or for having short weights and measures. Lists of registered tradesmen should be published half-yearly, and publicly posted; and the names of persons convicted of having sold adulterated articles, and for having

having short weights and measures, should be published, and also publicly posted, half-yearly. Certificates of registration should be issued annually. A distinction would be thus drawn between the honest and dishonest tradesman, of value to the former, and of great importance to the public. It would be desirable to compel every trader to register before commencing business. Persons directly concerned in, or accessary to pernicious, injurious, and poisonous adulteration, and the adulteration of drugs, should be declared criminals. And I would recommend that articles should be sold under their proper names. I think that the chicory Minute perhaps ought to be either repealed, or the quantity of chicory to be mixed with the coffee should be fixed.

4239. Mr. *Gregson.*] The per centage?—Yes.

4240. Mr. *Moffatt.*] If the quantity of chicory were so fixed, could you detect whether that precise quantity was in the coffee which was allowed by law or not?—Pretty nearly; not to a decimal.

4241. Could you detect it to 10 per cent.?—I am not prepared to say; I should think so.

4242. Mr. *Gregson.*] Are your recommendations confined to pernicious adulterations, or do they extend to deceptive admixtures, that is, selling one article for another?—Yes.

4243. Lord *C. Hamilton.*] What benefits are to arise from persons being retained on the register, and what penalties are to follow their being struck off?—The public would be able to distinguish then between an honest trader and one who had been convicted of having sold adulterated articles, and of having had short weights and measures, by his non-appearance on the list of registered tradesmen. I would not compel every tradesman to be registered, but I would afford the public an opportunity of knowing those tradesmen who were conducting their business fairly, and of drawing a distinction between them.

4244. Mr. *Gregson.*] Do you propose to have two classes of registration?—Two lists; a list of those who have been convicted of having short weights and measures, and a list of those who have been fined or imprisoned for having sold adulterated articles.

4245. Mr. *Otway.*] I thought you proposed to register every tradesman?—It would be desirable to compel every trader to register.

4246. Why?—I think you would be able to carry out this plan very much better, and it would be a greater penalty to him when he was struck off the list.

4247. Mr. *Gregson.*] Do you propose to register every tradesman in every branch of business throughout the country?—The shopkeepers.

4248. Mr. *Wise.*] You have stated that you propose to appoint inspectors; would you not have, in giving instructions to those inspectors, to define, first, what adulterations are; secondly, what adulterations are prejudicial to health; and thirdly, what the adulterations are which are simply commercial frauds. How do you intend to define adulteration?—Injurious and pernicious adulteration I would define to be the admixture of substances injurious in themselves to the public health with articles of food. Fraudulent adulteration I would define to be the deterioration of a commodity, and the lowering of its value by the admixture of inferior substances; for example, potato starch with arrowroot.

4249. If you appointed inspectors on the ground of public health, how could you give them instructions to interfere with a question simply of public morals?—I think that some central authority should issue instructions with regard to what constitutes injurious adulteration; of necessity if you interfered in one case you would in the other.

4250. You would have the Secretary of State, the Board of Trade, or the Board of Health, issue a schedule of what you call hurtful adulterations?—I would.

4251. Like the French Conseil de Salubrité?—Yes.

4252. Mr. *Otway.*] Which schedule should be a permanent guide?—Yes. If a particular kind of injurious adulteration were defined by an Act of Parliament, shortly after that adulteration had been suppressed, another would supply its place. I think that the individual appointed should be specially educated for the work of testing and analysing those commodities.

4253. Who is the gentleman to whom you are referring?—I mean the inspector or analyser.

4254. Are you proposing to appoint one officer for the whole of the United Kingdom?—One or two perhaps should reside in every large town.

 4255. *Chairman.*]

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4255. *Chairman.*] Have you any other suggestion with regard to the remedies to make to the Committee?—I believe that if an officer was appointed, fraudulent adulteration might be suppressed to a very great extent by the appointment of a public prosecutor; I believe there are many persons who would send things for analysis, and that a proceeding could be instituted through a public prosecutor. In this way the small retailer could protect himself.

4256. Mr. *Otway.*] Do you propose that the dictum of that officer should be sufficient, and that if he declared that an article was adulterated, that should be considered as sufficient evidence affecting the tradesman?—I think that his evidence should be taken by the magistrates, and if they were dissatisfied, they should have the power to call in the aid of another analyser, and to hear the evidence of the parties.

4257. Mr. *Wise.*] If the public prosecutor to whom you have alluded brought a charge against an individual, and that charge could not be proved satisfactorily, how would the unfortunate individual get his expenses; from what fund would you pay the tradesman who might be so seriously injured?—I scarcely know what reply to make to that question.

4258. Would you not find it a simple course to limit your prosecutions to adulterations which were injurious to health?—I think so, decidedly. By the appointment of such an officer, you would have in a town a person capable of testing and analysing, for the purpose of detecting fraudulent adulteration, and then proceedings might be taken by a private individual, if he was so disposed, for the suppression of that adulteration.

4259. Would not the fraudulent adulteration of food, although not injurious to the public health, be pretty much in the same position as the admixture of devil's dust in cloth, and other admixtures in articles for wear?—I think it is exceedingly desirable to check fraudulent admixtures by the officer appointed, but I doubt whether that could be fully carried out, or whether it would be submitted to, in the case of certain mixtures, by the traders of the country.

4260. Do you think that with the great demand for cheapness it would be possible to carry out such a system of interference as you propose?—I think that a commodity which is adulterated fraudulently is lowered in value to the purchaser, and it is desirable on his account that the adulteration should be prevented; I do not think that I should interfere with the seller, except for his benefit; he would obtain the same profit on a genuine commodity as on an adulterated commodity.

4261. Viscount *Goderich.*] Is there, in your opinion, any real or advantageous cheapness in buying an adulterated article?—I think not; I think that there is a great mistake in the public mind with regard to that. A poor man makes a purchase of coffee, which is mixed with chicory, and if it makes a black solution he thinks that it is genuine coffee; and that is the case with regard to tea. If the tea which he buys forms a high coloured solution, and is rough on the palate, perhaps the poor man might suppose that it was very excellent when it contained a strong astringent. I know from the numerous samples of ground coffee I have purchased at the poor man's shop, that he is defrauded to an enormous extent, and I think, for the public good, and especially the poor, fraudulent adulteration should be suppressed by the officer appointed.

4262. Mr. *Otway.*] Is it a fact within your knowledge that the poor people of this country buy tea in the dearest manner, and buy the worst tea?—I think the poor man pays a very great price for his small quantities.

4263. And gets the worst article?—Yes. I know that bread is most extensively adulterated, and the poor are the chief sufferers. I have myself made, for an experiment, 13 lbs. of bread out of 7 lbs. of flour, and I believe that 30 lbs. of bread may be made from 14 lbs. of flour, by the addition of rice, fixing a large quantity of water.

4264. Viscount *Ebrington.*] Is it not the natural consequence of buying things in very small quantities that a higher price must be paid for them than if they were bought in larger quantities?—Yes, on account of the trouble being the same.

4265. Mr. *Moffatt.*] Am I to understand you to say that you propose to recommend to this Committee that analytical Boards should be established throughout the kingdom to detect whether articles have been adulterated or not?—No; I only advise that officers should be appointed under the local authorities, not under the control of the local authorities, and that a central authority should be appointed for their guidance.

4266. That being an analytical Board in London?—Some body might be thought to be desirable; I do not state myself what that body should be.

4267. Do you propose to have one officer of that description appointed by some authority out of the district to analyse all articles which are assumed to be adulterated?—Yes.

4268. All articles, both articles of food and drugs?—Yes.

4269. And you propose that a fee should be charged upon all articles brought to him by the public before the analysis is made?—In certain cases; but he should be specially empowered to make purchases himself in order to suppress the evil. I think that if people had fees to pay, adulteration would go on as it does at present.

4270. To whom is this officer whom you propose to create to report his proceedings?—To the magistrates, I suppose, in the same way as the inspectors of meat and markets.

4271. Mr. *Otway.*] And the inspectors of weights and measures?—Yes.

4272. Mr. *Moffatt.*] Would you propose to appoint him in the same manner as the inspectors of weights and measures are appointed?—I am not aware of the manner in which those officers are appointed.

4273. How do you propose to appoint those officers who are to analyse the various commodities which are sold by the traders of this great country?—I think that the qualifications necessary for the office should be distinctly stated, and after that the officer should be appointed by the local authorities, under the instructions of, and subject to the approval of the central Board.

4274. You propose, in the first place, to create a central Board?—I would not propose that myself. I think that the Board of Health might be able to undertake the duty.

4275. You would give the Board of Health the power of appointing this officer, but who would you propose should examine the officer as to his competency for analysing all the various articles which are brought to him?—Some competent Board, I think, ought most certainly to examine the officer as to his qualifications.

4276. Do you think that it would be an easy matter to get any one person qualified to decide as to the adulteration of the various articles that are sold throughout the country?—I think not. I think that there should be some preliminary education, which should fit a man of ordinary intelligence for the office.

4277. You have given great attention to this subject?—Yes.

4278. Would you feel yourself qualified to decide with regard to any article generally sold, whether that article was pure or whether it was adulterated?—To speak generally, you may ascertain readily whether certain things are adulterated; but there are commodities which it might be difficult to deal with, and which would require a lengthened analysis, and perhaps it would be necessary to have the opinion of another as to the question of adulteration.

4279. You have named the article of tea, in which you state it would be difficult to distinguish whether there was a strong astringent; have you analysed any tea in which there was a strong astringent?—I have tasted tea; I would not state that I have analysed it minutely.

4280. Have you discovered any property in the teas which have been brought to you for analysation in which you found any strong astringent which did not proceed from the tea itself?—I have found catechu in tea. The subject of tea has not engaged my special attention.

4281. As regards coffee, assuming that there were five per cent. of chicory mixed with coffee, would you be able to discover that?—I think so.

4282. Have you ever detected five per cent. of chicory in coffee?—No.

4283. What articles have you analysed?—Bread and flour.

4284. I presume that in bread you would not allow the use of alum?—No.

4285. Do you think that it would be within your power as an analytical chemist to detect one-half per cent. of alum in bread, or a much smaller quantity?—In the case of bread you would take a large quantity for analysis.

4286. Could you detect a half per cent. of alum in bread?—I think so.

4287. If there was a mixture to the extent of half or one per cent. of any foreign substance in wheaten flour, of which the bread was professed to be made, could you detect it?—I would not state that positively. My examination has been more testing. Though I have analysed bread, flour, and other commodities,

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I would not say that I am an analytical chemist by profession. I have tested and analysed articles of food and drugs, to ascertain for myself the extent of the evil to be eradicated.

4288. As you have come before the Committee with a plan proposing a remedy for grievances which are alleged to exist, I am anxious that you should state, having of course considered this question, whether you believe that the officer whom you propose to appoint could in all cases, or in the great majority of cases, positively decide that there was adulteration, and if so, to what extent the adulteration went?—A suitable person could.

4289. From what source do you derive that impression, because you do not appear to be yourself an analytical chemist, or able to decide positively as to the adulteration of any of those articles?—I decide the question from the conviction in my own mind of the correctness of the analyses I have made, and the tests I have applied. I think, with ordinary precaution, chemistry is a certain science, and its results are certain. I think that a careful analysis should be made, and that in case of the slightest doubt another analysis should be made of articles suspected to be adulterated before a decision is arrived at by the magistrates.

4290. You propose that the officer shall report his analysis to the magistrates of the municipality?—Yes.

4291. And you also propose that the magistrates of the municipality are to keep lists, which they are to publish, of parties who have sold goods which are asserted by the officer to be adulterated?—After the conviction of the parties.

4292. Is the officer, before publishing the list, to prosecute the vendor of the adulterated article?—A summons should be issued by the magistrate for the appearance of the party before the magistrate.

4293. Who is to apply for the summons; the analytical chemist?—The officer appointed.

4294. And to state the result of his analysis?—To summon the party in case of an adulteration being detected. That proceeding I believe is adopted under the present law with respect to bread. A quantity of bread is purchased, an analysis is made, and then a proceeding is instituted by information being given to the magistrates, and a summons issued; and the evidence of the analytical chemist is heard, and other evidence.

4295. Is it within your knowledge that the law which exists at the present time is extensively acted upon with respect to bread?—Very rarely, on account of its expensiveness and the loss of time which is occasioned in following up the cases.

4296. Does not the law with respect to bread exist in as full force as the law which you propose to apply to any other articles?—As regards bread.

4297. As regards bread is there not as plenary power as you would propose to apply to any other article?—I am scarcely conversant enough with the law affecting bread to be able to answer your question. I think that the Act of Parliament with reference to bread is stringent, provided it were carried out; but you have not officers appointed to look after the adulteration of bread; and therefore adulteration prevails, inasmuch as what is everybody's business is nobody's business. The public generally do not like to prosecute.

4298. You propose that no publication shall occur in regard to discoveries of adulteration by the officer whom you propose to create until the case has been tried before the magistrates?—Certainly not; it would be a very dangerous power to place in the hands of any individual.

4299. Do you think that when a case was placed before the magistrates you would have a fair guarantee for the accuracy of their decisions?—I think so.

4300. Would not this occur, that your officer whom you appointed to analyse, might allege that the article was adulterated, and declare it to be mixed with so and so, and the evidence of others perhaps equally competent with himself would be produced to say that the article was not so adulterated?—I would have a sample taken from the article which he examined, which sample should be left in the care of the town clerk, and which could be produced so that any number of analytical chemists could be employed; and thus any error would be refuted.

4301. That measure would involve very considerable expense, would it not; is not analysing samples a very expensive thing?—There are certain things which are very readily tested, and very cheaply tested by the microscope. With regard to bread, it would be attended with some trouble and expenditure.

4302. Would

4302. Would not an analysis be attended with great trouble with regard to a great many drugs?—With regard to some medical preparations there would be very little trouble; you could readily ascertain the presence of adulteration; with regard to some drugs it would be a work of time.

4303. How many officers of this description do you consider would be requisite to protect the whole community of the United Kingdom from adulteration?—I think the sellers ought to be held responsible, and the fact of such an officer existing would prevent adulteration to a great extent. The retailer would find it his interest to go to the analyser and say, "I have received this article from the wholesale dealer in London; perhaps it is adulterated; will you make an analysis of it." If he paid a fee for that analysis, and it went into the borough fund, the salary of the officer would be met, and the retailer would be benefited.

4304. How many officers do you calculate would be required to protect the trade of the United Kingdom?—I should suppose for Birmingham, for instance, one analyser would be sufficient, after due notice was given prohibiting adulteration.

4305. Would you have one analyser for each of the smaller towns in the kingdom?—For a district.

4306. Have you made any calculation as to the number of men that you would require for the purpose?—No.

4307. Or of the cost which would be required to pay them?—No; I think that the salary should place the officer in a perfectly independent position, and he should not be dependent in any way upon the convictions.

4308. You have arrived at no conclusion as to what your plan would cost the country?—I think that the public would be benefited very much indeed by the appointment of officers of that description. I suppose that the salary would be 500 *l.* a year.

4309. Do you propose that the salary of the officer should be paid out of the Consolidated Fund, or out of the local rates of each district?—Out of the local rates of each district.

4310. Mr. *Gregson.*] Would not the fines collected from tradesmen be applicable for that purpose?—I should think so.

4311. Mr. *Moffatt.*] Assuming that the retailer vended adulterated goods, and it was proved that he sold those goods in the state in which he purchased them, what course would you pursue?—I think he would not have an excuse for vending those commodities, seeing that he would have the opportunity of taking a sample to a public officer, paying a small fee, and getting it analysed.

4312. Would not that involve his taking a sample of every species of goods?—If it involved that it would show that he was not a very competent person to commence business. I suppose a person keeping a shop ought to be acquainted with genuine commodities, so as to be able to protect himself as well as his customers.

4313. Therefore, you leave him in the main to protect his own interests against adulteration; do not you think that the consumer is as competent to protect himself as the other party?—Certainly not.

4314. Viscount *Ebrington.*] You expect the vendor to understand the particular things in which he deals, but you do not necessarily expect the customer to understand everything which either his necessity or his fancy may in the course of his life induce him to buy?—Certainly not. If you sent for me as a surgeon to prescribe for you for any complaint, you would not be the judge yourself; I should be the judge, and should be held responsible to you if I did wrong. I think that the seller is responsible to the purchaser, and is bound to supply him with the commodities inquired for.

4315. Mr. *Moffatt.*] Is it your opinion that there is a fair analogy between employing you as a medical man to treat some internal or external malady of the body, and a person being a judge whether sugar is adulterated or not?—I think that the responsibility differs in degree; a gentleman would be perfectly ignorant of his complaint, but I, as a surgeon, ought to know, and if I do not know, and he is damaged in any way, I am the responsible party. I think, with regard to commodities, the purchaser is not in the same position as the seller; the seller is bound to supply what he is asked for. The responsibility in the two cases

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differs in degree. The responsibility of a professional man is different from that of a mere vendor of any commodities; but I think that the seller, as the responsible party, should understand the articles in which he deals, or he should not be allowed to keep a shop.

4316. Do not you believe that your own housekeeper is able to judge whether sugar is adulterated or not?—She could tell if it contained sand, but she would not be able to tell if it contained inferior sugar; nor would she know whether tea, coffee, or bread were adulterated. In fact, with regard to bread, if three years ago a loaf of white bread had been presented to me I should have said that it was very good bread indeed, but since I have attended to this matter I have found that white bread contains alum and so on; I know that it ought not to be white; I know that it ought to be of a yellowish colour.

4317. You apprehend the public being still afflicted with very inferior bread is owing to the absence of an officer to inspect that bread?—It is owing to the absence of information. A demand has been made upon the baker for very white bread, and to meet that demand he has been, in a great measure, obliged to add substances to produce that whiteness, although I believe that adulteration is really carried on as a matter conducive, as the party thinks, to his own interest.

4318. I think I gathered from your previous evidence, that you considered any mixture to be a fraudulent adulteration; do you classify all mixtures in the category of fraudulent adulterations?—I would not go to that extent.

4319. Will you define what you hold to be fraudulent adulteration?—I should say, that the addition of potato starch to arrowroot was a fraudulent adulteration, inasmuch as it is a substance lowering the quality of the article to the purchaser; or the use of tobacco in beer, instead of the proper quantity of malt; I should consider that tobacco in beer was an injurious adulteration.

4320. Would you consider the mixture of an article of a high price with a lower priced article a fraudulent adulteration, although the public got the benefit of obtaining what was alleged to be a very good article at a very much lower price?—Unfortunately, they get it at a much higher price.

4321. Assuming that they do get it at a lower price, would you say that it was a fraudulent adulteration?—I should say that it was a deception practised upon the purchaser, if the purchaser was kept in ignorance of the admixture.

4322. Would not this case come within the scope of your officer's judgment; if a thing was sold as the best sugar or the best coffee, and it was not the best, but an inferior coffee or sugar, that would clearly be a fraud; and if there was very good tea mixed with inferior tea, and it was sold as best tea, that would be a fraud, in your opinion?—I think so.

4323. It would come within the scope of the officer's power of informing against the vendor who sold mixed tea as very good tea?—Yes. With regard to the article of cream of tartar, that is sold at a price at which it is impossible to procure the genuine article. Many tradesmen have said to me, "If a public officer was appointed to look after these things, or there was a cheap mode of proceeding, I would purchase of this man who is underselling me, and proceed against him, to protect myself from the unfair competition to which I am subjected."

4324. There is genuine cream of tartar to be obtained, is there not?—I believe so.

4325. Is not the cream of tartar which is supplied to the public sold at a less price; and therefore the public gets the advantage of buying the inferior article at a lesser price?—The cream of tartar that came into Birmingham was adulterated with three parts in four of alum, and was sold at the price of the best commodity.

4326. Was that druggist, assuming always a competent knowledge of that which he was dealing in, so ignorant as not to discover that there was only 25 per cent. of the real article, and 75 per cent. of adulteration?—He did discover it afterwards.

4327. What did he do?—I strongly advised him to send the sample back again.

4328. You do not mean to say that such a practice generally prevails?—I believe that cream of tartar is adulterated with alum; and returning to the article of milk of sulphur, you find that common milk of sulphur is sold at the same price as the genuine milk of sulphur, though the genuine commodity will

will cost 75*s.* a hundredweight, and common milk of sulphur 28*s.* a hundredweight.

4329. I am anxious to see how your proposed plan would operate upon other things than drugs: can you give evidence with regard to articles of consumption, say, for example, the articles vended by grocers, or tobacconists, or brewers; how would you propose in those cases to deal; take, for example, the article of beer: what would you define to be perfectly pure beer?—I should say that beer ought to be made of a solution of malt and hops, fermented.

4330. And no other article?—No.

4331. Would you permit any sugar to be used?—Yes; because that would assist in the generation of spirit; and that proves the necessity of some central body to issue instructions.

4332. Then you do propose to have a central power?—I think it is necessary to have a central power; it may be in some Board already existing.

4333. Who are to define how those articles are to be made?—I should say that they would define what would constitute the adulteration of those commodities.

4334. For example, taking the article of beer, a great many commodities are put into beer, according to the district and according to the water; how would you deal with that article?—I would check pernicious adulteration.

4335. You would prevent the insertion of cocculus indicus?—Yes.

4336. Is there any other article the use of which you would prevent?—I would prevent the insertion of tobacco, and I would prevent the admixture of sulphuric acid, which I believe is added to make new beer into old beer, to make it taste acid, and that is an injurious adulteration.

4337. Your plan then embraces this, that you would propose to establish a Board, that should draw up a code of regulations as to the articles which are to compose beer, and every other manufactured article which is consumed by the British public?—I would not state that.

4338. Viscount *Ebrington.*] You are aware that the use of sugar in beer is sanctioned by the Excise Regulations, which do proscribe other mixtures with beer, are you not?—I am aware that for the purpose of the revenue the public are protected to a certain extent.

4339. Mr. *Moffatt.*] Are you aware that the Excise have only sanctioned the use of sugar in beer within the last five years?—I am not.

4340. Mr. *Gregson.*] Without prescribing what the contents of the commodity should be, you would merely prohibit adulteration?—I would prohibit adulteration.

4341. Mr. *Wise.*] If I understood you correctly when you stated that you would give some department of the Government the power to publish a schedule with reference to adulteration, you meant to state that alum in bread, all uncongenial mixtures, certain colouring matters, and things of that sort, should not be used?—Certainly.

4342. You did not mean that the composition of all articles of food should be defined?—It should not be defined what I should take for dinner.

4343. Then if I understand you correctly, you would apply to all articles of food the principles of the Bread Act?—Yes. I take the Bread Act to be an Act of Parliament for the purpose of prohibiting the adulteration of bread.

4344. How do you account for this, that that Act, which has existed so many years, has been comparatively obsolete?—The fact is, you have had no officer whatever appointed to detect the adulteration of bread, and there has been a disinclination to proceed in this matter until the last few years. It was thought to be an evil of life to which people were obliged to submit, and there is always an odium resting on private individuals who interfere in such matters.

4345. Do you think that if officers were appointed, the public would be more disposed to avail themselves of that Act of Parliament and take their bread to be analysed to a public analytical chemist appointed for the benefit of the public?—Not if they were themselves to be the prosecutors. I think in that case the evil would be much in the same condition as it is at present. I think that officers should be appointed to look after adulterations.

4346. Do not you think that the very fact of appointing public inspectors would prevent adulteration?—Yes, to a certain extent.

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4347. You have been asked with reference to the number of persons that would be required, and the enormous expense that would be entailed upon the country by such a system; do not you think that if one analytical chemist were appointed per union, that would be sufficient; are you aware how many unions there are?—No.

4348. Do you think it would be a beneficial arrangement that every Board of Guardians should appoint an inspector of that sort?—I think any public body in the country appointing an officer of that kind would be beneficial.

4349. Would it not be better received in the provinces if the Board of Guardians appointed the inspector rather than the Government in the metropolis?—That requires thought. I think if this officer was appointed by the town council, and was held responsible to that town council, you open directly the door to unfair dealing; perhaps if he were appointed by the Board of Guardians there would be less of that influence brought to bear upon him; if he were not removable by the town council, and complaints were forwarded to some public authority, he would be perfectly independent of the local authorities.

4350. What measures would you recommend with regard to the sale of drugs and medicines?—That the seller should be held responsible; and perhaps it might be desirable to have some inspection at the ports. I am aware that drugs may be admitted into this country which may be impure, for the purpose of prescription, and still be sufficiently valuable, so that their active principles may be extracted. I should give authority to the General Board of Health to regulate the quantity and strength of drugs and chemicals.

4351. Do you think that the chemists and druggists of this country might be licensed?—I should say very beneficially so to themselves; for many men commence keeping druggists' shops who are incompetent, and have not the proper information with regard to drugs, and if you had some system of licence for chemists and druggists you might then have some qualification for that licence, and hence you would secure a better class of persons. The Pharmaceutical Society have done a great deal to improve the position of the chemist and druggist who is a member of that society.

4352. Inasmuch as it would require a scientific person to examine the stock of a chemist and druggist, what course would you recommend with regard to that inspection?—I think that the inspection of drugs might very well rest with the officers appointed for the inspection of food.

4353. Do you think that all the chemists' and druggists' shops of the metropolis could be inspected properly by the same parties who had to inspect tea, coffee, and bread?—I think that inspection should not be resorted to except after a conviction, and perhaps conviction several times. I think that inspection is a thing that might be very strongly resisted on the part of the traders of the country; if the seller was held responsible for the purity of his commodity, you then directly make it his interest to procure the best articles he can, and if he had an opportunity of ascertaining whether those articles were adulterated or not, I think he ought really to be held responsible.

4354. Are you not aware that the College of Physicians have now some power with reference to the inspection of drugs?—Yes; but that power is not sufficient. If you had public officers they would be under certain control; and if inspection is resorted to for the purpose of preventing adulteration, I think you should take the article after it has passed the counter, and not take a mere inspection; it would be quite possible for a man to say, "Here is my drug;" and place before the inspector a very good article, keeping back the adulterated article; or he might adulterate the article after the inspector had gone.

4355. As regards drugs, you think that it would be rather desirable than otherwise to have an inspection on importation?—I think so.

4356. Do you think that a small duty for the sake of securing public inspection, might be advantageously levied on all drugs?—Yes; I think that a duty on drugs imported would certainly cause an examination of those drugs, and would tend to the protection of the public by preventing the introduction into the country of impure samples; for instance, scammony.

4357. In your opinion, a very small duty would not tend to produce adulteration by the increase of price?—No; I think if you had a duty placed on chicory, provided you could prevent the adulteration of chicory, that would be an advantage to the consumer. If you brought up the price of chicory to the price of

of coffee, then it would not be worth the while of the retailer to adulterate his coffee with chicory.

4358. Mr. *Moffatt.*] With regard to the last illustration you have given, if you put a duty upon imported chicory, would you put a duty upon home-grown chicory also?—Certainly.

4359. Would you place an Excise duty on the article of chicory?—Yes; not on the chicory as it is sold.

4360. On the root?—Yes.

4361. Are you aware that whatever adulteration may occur in chicory, cannot occur in the chicory root, but must be in the manufactured article?—I would place the duty of course on the manufactured article.

4362. Are you aware whether chicory is imported in the manufactured state or in the root?—I believe it is imported both as a manufactured article and in the root.

4363. Are you not aware that the great bulk of the chicory is simply imported in the root?—I have seen chicory imported manufactured.

4364. Is not nine-tenths of the chicory imported, imported in the root?—I am not aware.

4365. Are you aware of the process by which chicory is manufactured?—It is roasted, and then ground up.

4366. Are you aware that as soon as it is roasted the special qualities which enable it to be mixed with coffee begin to deteriorate and to evaporate?—No doubt, like every other vegetable substance, if it is kept in a damp place it would undergo decomposition.

4367. Would it not follow that importing chicory in a roasted state must be very disadvantageous to the quality of the chicory?—Certainly.

4368. Mr. *Wise.*] I asked you whether you thought it would be desirable, for the sake of the protection of the public with regard to medicines, that a small duty should be put upon drugs, so as to secure inspection?—Yes.

4369. Mr. *Moffatt.*] Are you aware that 15 years ago there was a small duty upon every description of drug?—Yes.

4370. Did that secure purity in the drugs imported?—I am not in a condition to answer that question of my own knowledge. I have had no connexion with the importation of drugs; from my own experience, I should say not. It may not follow as a necessity that if you have a duty you would have an inspection; but I think that if you had the duty you would be likely to have the inspection.

4371. Do you propose an inspection of drugs at the various ports?—Yes; that you shall have the power of inspection.

4372. With a view to prevent the importation of any drugs which are impure?—Of course; as concerns the question of purity and impurity, you might have a law that impure drugs should be imported for certain purposes.

4373. What do you propose on that subject?—If you have a sample of scammony which is adulterated, and the active principle in it would amount to seven per cent., that scammony ought not to come into consumption; but I still think that the resin in the scammony might be useful for certain purposes. If you have some central authority fixing the standard and the quality of the drugs to be sold, then at once you get rid of impurity.

4374. Fixing the amount of impurity in each description of drug imported, and if they contain a greater amount of impurity than that fixed by the tariff or schedule, they are to be excluded from being brought into this country?—I would not exclude the importation of impure drugs, but I would prevent their sale and use for medicinal purposes.

4375. Viscount *Ebrington.*] As I understand you, you look rather to preventing their being retailed for medicinal purposes than to preventing their importation?—Certainly.

4376. Are you not of opinion that although an impure drug may be too bad to be retailed in its present shape, it yet may contain a sufficient amount of valuable ingredients to be quite worth while importing for the sake of extracting those valuable ingredients; for instance, from bad opium morphine in a state of purity may be extracted, and afterwards retailed in the shape, not of impure opium, but of pure morphine?—Yes. To illustrate your Lordship's question, I may give this reply to it: A sample of gum opium was placed on my table at Leeds,

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containing one per cent. of morphia; that would be a very bad sample for medicinal purposes, but a good manufacturing chemist could extract that one per cent. of morphia, and he ought to have the privilege of doing so.

4377. Mr. *Moffatt.*] How would you propose to deal with drugs having so large an amount of impurity as that assumed by the question of Lord Ebrington; would you preclude them from being taken into home consumption?—I believe, as is done in America, that the purity of the drugs, as used by the public, should be fixed.

4378. If there is a greater quantity of impurity than that prescribed in the schedule, you think that those drugs should not be allowed to be brought into home consumption?—Certainly.

4379. You would not allow them to be bonded for home use?—I am not able to give a proper reply to that question. A manufacturing chemist might go to the docks and purchase a lot of impure drugs. Supposing you had a sample of bad bark, it might contain some quinine, and a manufacturing chemist could extract it, and it would be very good quinine for the purpose for which quinine is prescribed; but if he took that bad bark and ground it up, and then sent it round to the druggists as bark, I think that it would be a very undesirable thing, and I think it ought to be prevented. I would allow a certain range.

4380. With respect to inferior drugs, you would allow the wholesale chemists to take them, get the good out of them, and reject the dross?—Yes.

4381. What security would you have that when a manufacturing chemist bought those inferior drugs at a very low price, because they would be out of the competition of the general market, he would confine himself to extracting the good properties from those drugs and throwing away the refuse?—You would have the security of the seller; the seller could not dispose of those drugs; having obtained them as imported, he would be a very dishonest man if he did so, and they would be returned on his hands.

4382. Assuming that he cannot sell those drugs, is not the principle self-acting, by which the article protects itself?—Unfortunately the seller is interested in selling an impure article, because he can purchase the impure article at a less price than he can the pure article.

4383. If he can purchase the impure article at a still less price than he would otherwise be able to do, in consequence of the goods being out of the competition of the market by the course which you recommend, would not that operate as an inducement to vend the impure article?—I think not, if you had an officer appointed to look after his proceedings.

4384. To look after the proceedings of the manufacturing chemist?—The seller.

4385. The seller is the wholesale druggist of London?—It would first be the retailer purchasing from the wholesale dealer; if you make the seller responsible you make him directly interested in procuring a genuine commodity; and until he is made responsible he will purchase such commodities as he can get at a low price.

4386. Will it not, in the matter of drugs, be almost impossible to ascertain accurately whether the drugs he is vending have that precise quantity of purity that you are proposing to lay down in the schedule that they should have?—It would be very difficult for some men in the drug business to do so. If a druggist had the means of obtaining that information by the payment of a fee, it would be an advantage to him to do so, and an advantage to the public.

Veneris, 2° die Maii, 1856.

MEMBERS PRESENT.

Mr. Scholefield.	Mr. Wise.
Mr. Moffatt.	Viscount Ebrington.
Mr. Sheridan.	Mr. Peacocke.
Mr. Cowper.	Mr. Alderman Cubitt.
Mr. Gregson.	Mr. Kinnaird.
Mr. Knight.	

WILLIAM SCHOLEFIELD, Esq., IN THE CHAIR.

George Moffatt, Esq., a Member of the Committee; Examined.

G. Moffatt, Esq., M. P.

2 May 1856.

4387. *Chairman.*] I BELIEVE you have a Return from the Inland Revenue Office which you wish to put in Evidence?—Upon looking over the evidence, I found the Committee had no return and very little information with regard to the number of licenses issued from the Board of Inland Revenue within the Bills of Mortality; consequently I wrote to the Chairman of that Board for a return, which return I now hold in my hand. It will be found from an abstract of the return, that the number of tea and coffee licenses granted within the Bills of Mortality are 7,811; licenses for the sale of wine, beer, and spirits, 14,138; licenses for the sale of snuff and tobacco, 16,723: the total number of Excise licenses thus issued in the year 1855 was 48,750.

[*The Return was delivered in, and is as follows:*]

A RETURN of Number of EXCISE LICENSES Issued within the Bills of Mortality, in the Year 1855, classified in Trades.

DESCRIPTION.	Number of Licenses Issued.	DESCRIPTION.	Number of Licenses Issued.
Auctioneers	597	Rectifiers and distillers	47
Brewers	136	Soap-makers	42
Beer dealers	240	Spirit dealers (not retailers)	20
Beer retailers (publicans) *	4,859	Spirit dealers retailing foreign liquors	42
Beershop keepers	2,525	Spirit retailers (publicans) *	4,827
Chemists (using stills)	79	Spirits, makers of Methylated	7
Dealers in tea, coffee, &c.	7,811	Sweets, retailers	1,385
Maltsters	6	Tobacco and snuff manufacturers	118
Malt roasters	6	Tobacco and Snuff dealers	16,723
Dealers in roasted malt	15	Vinegar makers	12
Paper-makers	16	Wine dealers	653
Passage vessels (on board of which liquors are sold)	33	Wine retailers (publicans) *	4,452
Persons licensed to let horses for hire	113	Stage carriage licenses	1,065
		Hackney - ditto	2,421

* It is to be observed, that the licenses to publicans to retail beer, spirits and wine, are for the most part issued to the same persons.

The bills of mortality comprise the cities of London and Westminster; the parishes of St. Marylebone and St. Pancras; the borough of Southwark; the parishes of St. Dunstan, Stepney; St. George, Bloomsbury; St. George, Middlesex; St. George, Queen's-square; St. Giles-in-the-Fields; St. James, Clerkenwell; St. John's, Clerkenwell; St. John's, Hackney; St. John's, Wapping; St. Katherine, Tower; St. Leonard, Shoreditch; St. Luke, Middlesex; St. Mary, Islington; St. Mary, Lambeth; St. Mary Magdalen, Bermondsey; St. Mary, Newington; St. Mary, Rotherhithe; St. Mary, Whitechapel; St. Matthew, Bethnal-green; and St. Paul, Shadwell.

Inland Revenue Office, 1 May 1856.

L. S. Lyne, A. & C. G.

Arthur Hill Hassall, Esq., M. D., called in; and further Examined.

A. H. Hassall, Esq., M. D.

2 May 1856.

4388. *Chairman.*] PERHAPS you will briefly refer to the diagrams with which you have been kind enough to furnish the Committee, pointing out what you think is necessary, with as little detail as is consistent with what you desire to state?—These diagrams I have had prepared in order to illustrate the application of the microscope to the discovery of adulteration. They represent the appearances presented by various articles under the microscope, some of the articles being in a genuine and others in an adulterated state. I would refer particularly to the diagrams of chicory and coffee. It will be perceived that the differences in the structure of the coffee berry and chicory root are very considerable. The first and second diagrams represent the structure of the coffee berry, the first the unroasted, and the second the roasted berry; the third diagram represents the appearance of roasted chicory root under the microscope. It was not long since it was considered almost impossible to distinguish between roasted chicory and roasted coffee, when they were mixed together, and it was almost impossible to do so until the microscope was applied to the discrimination; but, with that instrument, nothing is more easy.

4389. How long is it since the miscroscope has been used for that purpose?—About five years. Now the differences between a great number of other vegetable substances are equally striking with those which exist between chicory and coffee. I have now examined altogether many hundreds of vegetable productions, and in very few cases have I been unable to distinguish the one from the other. I may observe that that remark applies to nearly every vegetable drug. I have gone over with the microscope every vegetable article contained in the Materia Medica, and there is scarcely any that may not be distinguished the one from the other by means of the microscope, and this even when reduced to powder, and after they have been roasted in the ordinary manner. I have but little additional information to give to-day regarding the adulteration of articles of food. The evidence which I propose to give relates principally, but not entirely, to drugs. There are, however, one or two points in connexion with a few articles of consumption, to which I would wish to refer before proceeding to speak of the adulteration of drugs. The first is flour. I have the authority of a gentleman connected with a flour mill, near Cambridge, for stating that either rice or bean flour is very commonly added to wheat flour in small proportions. It is stated that the object with which those additions are made is to cause the flour to bind better when made into bread, and that they are not made for the purpose of adulteration, but that certain qualities of wheat are improved, in the way I have mentioned, by the addition of small quantities of bean and rice flours. I would remark, that when the wheat flour is of good quality, I consider that there is no necessity whatever for any such additions. I have on several occasions met with alum in flour. A good deal has been said by various witnesses as to the state in which that substance exists in bread. Some maintain that it is decomposed, and that, in consequence of its decomposition, it is no longer injurious. I think it right that the Committee should be made acquainted with the views of Baron Liebig upon this subject. Baron Liebig considers that alum, when well incorporated with the flour, is decomposed; the phosphoric acid of the phosphates of the wheat flour uniting with the alumina of the alum, and so forming an insoluble phosphate of alumina. Now, Liebig regards the soluble phosphates of wheat flour as one of its most important constituents, and he states that when alum is used, the phosphates are lost to the system in consequence of the insoluble condition to which they are reduced. Liebig therefore strongly condemns the use of alum, and where a very white bread is required, he has been in the habit for years past of recommending the employment of a small quantity of lime-water. This recommendation, I think, he first made in this country at a meeting of the British Association in Scotland, I believe at Glasgow, and in consequence of that recommendation it has been used to some extent in Scotland, and particularly in Glasgow; the lime-water having the same effect as alum in whitening the bread. If these views of Baron Liebig are founded in fact, (and any opinion which Baron Liebig entertains upon a chemical question is entitled to the greatest respect), it shows how dangerous a thing it is to tamper with prime articles of consumption like bread, by the introduction of chemical salts and substances.

Flour.

Alum in Bread.

4390. Mr.

4390. Mr. *Wise*.] Did he state what proportions of lime-water might be used?—I believe the quantity recommended was one wine-glass full to the quartern loaf. I was going on to observe that, supposing, however, it could be proved that the presence of alum in bread is not directly injurious to health in any way, yet certain objections would still remain to the employment of alum; one of those objections is, that it causes the bread to hold more water than it would otherwise do, and of course the greater the quantity of water, the less the quantity of wheat flour. The next objection to the employment of alum is, that it improves the appearance of flour without improving its quality; hence flour not of the first quality might be made to assume the appearance of flour of that quality, and this would allow of, in some instances, what is hardly legitimate, the passing off an inferior article for one of superior quality. In the evidence which I gave on a former occasion before this Committee, I stated the results of certain inquiries which I had made into the condition of coffee in France and Germany. I said that I had found that the coffee served up in the first-class hotels and restaurants was pure, that it was not mixed with chicory, but that the coffee met with in inferior restaurants, in small establishments, and especially that used amongst domestics, often contained chicory, but that the quantity of chicory which was employed seldom exceeded about two ounces to a pound. I have made some additional inquiries into this subject, and the result has been to confirm the statements which I then made to the Committee upon this point. In the course of my inquiries a very remarkable circumstance has been related to me with regard to the properties of chicory; it is, that mothers in France, and in Germany too, are sometimes in the habit of administering a strong infusion of chicory, or of chicory and coffee mixed, to children, in place of medicine, it being found that this strong infusion operates as an aperient; it is of course preferred to medicine, in consequence of its not possessing the unpleasant taste of ordinary medicine when mixed with milk or sugar. I have brought with me some specimens of adulterated tea, some of these are artificially coloured with Prussian blue, turmeric, and some white, earthy powder; others, as the caper and scented orange pekoe, are faced with black lead, while another consists of artificially coloured green tea, mixed with the spurious article termed Lie tea. I went into the subject of the adulteration of tea fully in my former evidence; but in consequence of its having been stated before this Committee that it was impossible to procure a sample of adulterated tea, I thought it desirable to bring one with me this morning. It was purchased on Wednesday last, and it contains a certain quantity of lie tea mixed up with it.

Chicory.

Tea.

4391. *Chairman*.] Was it purchased at a retail establishment?—The name of the party is upon the label. In my first evidence I stated that annatto, the substance employed to colour cheese, butter, and milk, was largely adulterated. I have since carried my investigations into the adulteration of that article still further than I had done previously, and I find that it is adulterated to a very large extent indeed. I have found in some samples as much as 63 per cent. of carbonate and sulphate of lime; in other samples a considerable quantity of turmeric; and again in other samples, from 40 to 50 per cent. of flour of different kinds; flour of wheat, rye, barley, and so on. I beg to hand in a communication on the subject of adulteration of annatto, which, if it is thought desirable, might appear in the Appendix (*handing in the same*).* Of all the adulterations practised upon articles of consumption, none are more important, in consequence of the injury which they entail upon health, than are those of coloured sugar confectionery. I entered fully into that subject in my first evidence; but I have brought with me this morning a variety of samples of coloured sugar confectionery; to many of the samples I have appended the names of the pigments with which they are coloured; those pigments include salts of lead, of copper, and of arsenic; the whole of the samples have been purchased within the last few months, and some of them even within the last few days. However, there is a very great improvement in the condition of those articles as vended now, compared to the state of things which existed some two or three years back. One would now have some considerable difficulty in getting a large number of samples as vividly and injuriously coloured as those are upon the table; one might do so in the course of five or six days' search; whereas formerly almost as many samples might have been obtained from the first shop one entered for the sale of these things. I will now proceed

Annatto.

Sugar Confectionery.

* On the Adulteration of Annatto; "Pharmaceutical Journal," January 1856.

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Liquorice.

proceed to speak of the adulteration of certain drugs. In my first evidence I described the adulterations to which four of the most important articles of the Materia Medica are subject; namely, jalap, ipecacuanha, scammony, and opium. On the present occasion, I will speak of the adulterations to which certain other drugs are subject; and first of liquorice. I speak of the adulteration of liquorice, not because of its importance, as a drug, but because it is an article which is very extensively employed, because the duty upon it furnishes some thousands to the revenue annually, and because also the adulteration to which it is subject appears to me to form part of a system of adulteration which exists as to other and more important articles of the Materia Medica. Of 21 samples of *roll* or foreign extract of liquorice analysed, every one was found to be adulterated; the substances employed for the purpose of adulteration being various kinds of starch or flour, as those of rice, wheat, barley, rye, and potato, and cane sugar, gum, and chalk. Genuine extract of liquorice dissolves without leaving any residue; those of the adulterated liquorices weighed, when deprived of moisture, from 18 to 42 per cent.: of the *pipe* liquorices, commonly called refined liquorice, all were likewise adulterated, and this generally to a greater extent than the roll liquorices; they furnished insoluble residues, consisting, for the most part, of different kinds of starch, varying from 34 to 41 grains per cent.; they usually contained cane sugar, and the pipes were generally enclosed in a tube of gelatine of the coarsest description, but little superior to common glue. The *Pontefract* lozenges examined furnished equally large residues, and they contain cane sugar. To such an extent is the adulteration of pipe liquorice carried, that it often contains not more liquorice than is sufficient to flavour the article. Of 28 samples of *powdered liquorice* subjected to examination, at least 11 were adulterated as follows: one consisted chiefly of wheat flour; one contained a large quantity of wheat flour; two, much foreign woody fibre; two, woody fibre and turmeric; another, woody fibre and wheat flour; one was made up chiefly of Indian corn, potato, and sago flours, and turmeric; another of sago, woody fibre, and much turmeric; another of damaged East Indian arrowroot, and a little turmeric; and another consisted almost entirely of potato flour, a little wheat flour, and turmeric. The last preparation of liquorice examined was the extract of the Pharmacopœia. In order to ensure a genuine article, a form is prescribed for the preparation of this extract; of 10 samples, six were found to be adulterated, and to consist merely of the foreign extract melted down; 14 of the foreign roll liquorices, as well as several of the liquorices sold as the Pharmacopœial extract, contained copper, derived from the vessels in which the extract was prepared. It thus appears that liquorice is adulterated to an enormous extent. It should be remembered that powdered liquorice is prepared by the drug grinders, and that it is furnished to the chemist and medical man by the wholesale druggist; its adulteration therefore lies mainly between those two parties. I should state that in all cases the powdered liquorice was labelled by the parties of whom it was purchased, and in no single instance was it acknowledged that the article so supplied was a compound article. I have brought with me several specimens of adulterated powdered liquorice, and the names of the parties of whom they were procured are written upon the bottles. I have not given the addresses, but I have the whole particulars at home, which I can furnish if I am required to do so.

4392. Mr. *Sheridan.*] Is not powdered liquorice used for the purpose of rolling pills in?—Powdered liquorice is used for the purpose of rolling round pills almost entirely.

4393. Mr. *Wise.*] Is not a very large proportion of liquorice-powder used in pills?—Pills are enclosed almost always in powdered liquorice.

4394. So that when a person takes pills, he must take a portion of liquorice?—He would take some.

4395. Is not the active medicine which is put into pills a very small portion of the bulk?—No; the powdered liquorice merely coats the surface of the pills.

4396. Mr. *Sheridan.*] None of those adulterations of powdered liquorice are deleterious to health, are they?—The adulterations of powdered liquorice are not deleterious to health; but it is wrong to sell as liquorice an article which consists of a variety of ingredients, and not of liquorice; that is not known or supposed to be the case generally, or the article would be less employed.

4397. Does not the chemist use the powder himself?—He does; but he is not at all aware that it is not what it professes to be in the majority of cases.

Turmeric.

Turmeric, which, as we have seen, is employed to a considerable extent in the adulteration

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adulteration of powdered liquorice is itself adulterated. I have one sample upon the table, which contains as much as 20 per cent. of yellow ochre; I find also that turmeric very frequently contains a considerable quantity of alkali, which is added to it for the purpose of increasing the colour of the powder; alkalies exerting a remarkable effect upon the colour of vegetable substances. I think the introduction of alkali into turmeric powder is, in some instances, objectionable, because turmeric powder enters largely into the composition of curry powder, and on that account I think the presence of much alkali is objectionable.

4398. Viscount *Ebrington.*] Alkali exercising a decided influence upon the health of those who take it, either for good or evil, as the case may be?—Exactly; in some cases it might be beneficial, and in other cases it would be undesirable. Another drug which I have found sometimes to be adulterated, is powdered rhubarb; I have met with samples of powdered rhubarb adulterated with turmeric, and there is a sample upon the table which contains a considerable quantity of wheat flour; powdered squills I have found to be adulterated with wheat flour. Other drugs which I have recently examined and found to be adulterated, are colocynth, compound scammony powder, and aromatic confection; powdered colocynth frequently contains large quantities of the seeds of colocynth, and those ought never to be present; in the directions given for preparing powdered colocynth, it is expressly stated that the seeds should be removed; I have also met with wheat flour both in the powder and in the extract of colocynth, and in the latter I have met with chalk. Colocynth is one of the most valuable purgative medicines contained in the Pharmacopœia, and its adulteration therefore is a matter of considerable importance. Another most important medicine is the compound scammony powder; this consists of three ingredients, namely, scammony, hard extract of jalap, and ginger; now two of those ingredients are very liable to adulteration, namely, the scammony and the powdered ginger, while the powder of jalap is very frequently substituted for the extract, although it is not more than about one-fourth of the strength of the extract. Of 10 samples of powdered scammony, I found chalk in greater or less proportions in all; wheat flour in three, and powdered jalap in three. The last medicinal preparation of which I propose to speak is aromatic confection, a very valuable remedy in the treatment of diarrhœa; this should consist of cinnamon, cloves, nutmegs, cardamoms, saffron, prepared chalk, and sugar, and it is consequently a somewhat expensive preparation. I find that the more expensive ingredients are frequently omitted, and others sometimes substituted, as turmeric in place of the saffron, essence of cassia for the cinnamon, and chalk for part of the sugar. I believe it would be by no means difficult to multiply examples of adulteration in drugs, were it either desirable or necessary; but I think enough has been stated, not only on this occasion, but in the evidence of many witnesses who have been before this Committee, to show that medicines are frequently adulterated to a very large and serious extent. I have brought with me, this morning, samples of adulterated jalap, rhubarb, ipecacuanha, squills, opium, scammony, colocynth, liquorice, turmeric, and aromatic confection. Medicines give rise to different actions and effects, according to the doses in which they are administered. To determine the exact doses of different remedies, and their corresponding actions and effects, has for years past been made the subject of careful observation and experiment by physiologists and others. To adulterate medicines is almost to destroy the value of such labours and inquiries; it is to introduce into the practice of medicine the greatest uncertainty and confusion; it is in many cases to defeat the wisest and best-directed efforts of the physician. Medicines are the chief agents employed in the treatment of disease; how all-important it is, therefore, that these agents should be pure and genuine. So long as the adulteration of drugs is permitted to continue, it is hopeless to expect that any great progress should be made in practical medicine. Disease is surely complicated enough, and difficult enough to cure, without the complication and the difficulty being enhanced by the practice of adulteration.

RHUBARB.

SQUILLS.

COLOCYNTH.

COMPOUND SCAMMONY POWDER.

AROMATIC CONFECTION, or CINNAMON.

4399. Mr. *Wise.*] Do you believe that those adulterations take place principally previous to importation, or by the drug-grinders, or by the druggist who sells them?—In the case of certain drugs, the adulteration takes place previous to importation, mainly; in the case of scammony, for example, the adulteration is practised abroad mainly; in the case of other articles, the adulteration takes place at home frequently by the drug-grinders; and in some instances, I fear, we must come to the conclusion that either the wholesale or retail chemist or

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druggist is a party to the practice. I think more generally the drug-grinder is at fault.

4400. So that in seeking a remedy, we must first look to importation; secondly, to the drug-grinder; and thirdly, to the vendor?—I think it would be necessary to make that distinction in any legislation upon the subject. I would now beg to be permitted to make, in a very brief manner, certain corrections of the evidence of Mr. George Phillips, of the Excise, and of Mr. Clapperton. In reply to Question 2483, put by Mr. Villiers to Mr. Phillips, these remarks occur: "I found my opinion upon my own experiments. If I understand his statement aright" (referring to myself), "he examined beer by means of acetate of lead; I think it was so stated in the 'Times,' but I refer to it under a doubt. If Dr. Hassall examined samples of beer with acetate of lead, and judged of them from that, it was a most fallacious conclusion to arrive at, to suppose that the beer was adulterated because a precipitate was caused by adding acetate of lead to the beer. If you add acetate of lead to any beer which ever was brewed, or will be brewed, you will have a precipitate." It is, I think, to be regretted, that Mr. Phillips, before making those remarks, did not take the trouble to ascertain whether the facts were really as stated therein; this he might easily have done by referring to my work on "Adulteration," which, however, he acknowledges in his evidence he had not read. I have now to state, that there is not the smallest foundation, in fact, for the observations above quoted, and that the process followed in the analysis of porter and stout was of the most elaborate and searching character. What that process was will be seen by reference to page 629 of my work. Stated in as few words as possible, and divested of all unnecessary explanation, it was as follows: The specific gravity of each beer was first determined, and then the amount of free acids which it contained ascertained; the alcohol was distilled off, and its amount determined, as were also the quantities of extractive, sugar and of gum; lastly, the extractive was incinerated, the ash weighed, and afterwards tested for salt and iron. This is all which I think it necessary to say upon Mr. Phillips' evidence. I will now pass on to the evidence of Mr. Clapperton, and perhaps if I do not correctly represent Mr. Clapperton's evidence, the Committee will set me right. Mr. Clapperton is reported to have stated, that an inaccuracy had been committed in the analysis of some bread purchased at his shop; that it had been said to contain alum when it did not; that this error had been acknowledged by myself, but that the charge had never been retracted. The following is a brief statement of the actual facts of the case: In 1851 some bread was purchased, in the presence of witnesses, at the establishment of Mr. Clapperton, in Mortimer-street, Cavendish-square, and after careful analysis was reported upon in the "Lancet," together with the bread of many other bakers, to the effect that it contained alum. On this Mr. Clapperton placed himself in communication with Mr. Wakley, by whom he was referred to me. Mr. Clapperton stated, that he did not use alum in the manufacture of his bread, and at my request he furnished me with four samples of the flour, obtained from as many different millers, and one sample of the salt used by him. These were subjected to analysis by two different chemists, and two of the flours, the salt, as well as the bread, were found to contain alum.

4401. Mr. *Moffatt.*] Are you reading Mr. Clapperton's statement, or your own?—A statement of the facts as they occurred: there being no inaccuracy in the original statement, it of course was not withdrawn. No imputation was then made, or is now intended to be made, that Mr. Clapperton used alum in the preparation of his bread; the only allegation advanced was, that the bread contained the substance in question, and necessarily so, since the ingredients of which it was composed themselves contained alum; and to the accuracy of that statement I am still prepared to adhere. In placing the various samples in my hands for analysis, Mr. Clapperton observed that he felt assured that we would do him full justice; and again, on the result of the analysis being communicated to him, he expressed his entire satisfaction at the manner in which his case had been investigated. In corroboration of this account, I am able to quote certain passages from one of the reports on bread, published in the "Lancet," which fully confirm the statement which I have just made to the Committee, but perhaps it is unnecessary for me to detain the Committee by any more lengthened explanation. Mr. Clapperton, I should mention, remained in business for nearly five years after the publication of the result of the analysis of his bread and flour.

4402. Mr. *Peacocke.*] By whom are the reports in the "Lancet" made?—The reports in the "Lancet" were all written by myself.

4403. Mr. *Wise.*] If I understand you correctly, you never stated that Mr. Clapperton put alum in his bread; you only stated that alum was found in the flour?—Exactly so; in the bread and flour.

4404. It might have been there without Mr. Clapperton's knowledge?—We considered that it was, so far as we could judge from the facts which were brought before us.

4405. Mr. *Moffatt.*] You have stated that Mr. Clapperton continued in business for five years afterwards; are you aware that he stated that your report had done him serious injury, had damaged his trade, and in fact ruined him?—I am aware that that statement appeared in his evidence in the daily journals, and it was on that account I thought it right to remark that he continued in business five years after the publication of the analysis in question.

4406. Mr. *Peacocke.*] Would not showing up any case of adulteration very much injure a person's trade, and probably very nearly ruin him?—I do not think it would have so serious an effect. I think nearly all those persons reported in the "Lancet," and who were found to vend adulterated articles, have continued to conduct their businesses. The exposure may in some instances have damaged their business.

4407. Mr. *Moffatt.*] Are you also aware that Mr. Clapperton, in self-defence, on your declaring that his bread was mixed with alum, had the bread analysed by other men of high standing as chemists, who declared there was no alum in it?—I cannot tell exactly what Mr. Clapperton did in reference to the matter; he stated to me that he placed his entire case in my hands, and that he should consult no one else. I believe it was reported that he consulted Mr. Bachoffner, but it is not stated whether he placed in Mr. Bachoffner's hands four samples of flour for analysis, and the bread and salt, or whether he placed in Mr. Bachoffner's hands only one sample of flour.

4408. Are you aware that Mr. Clapperton alleges that the same flour of which the bread was made that you had taken from him, and which you declared to contain alum, was subsequently analysed by two other competent persons, who certified that it contained no alum; those two persons being Mr. Pepper and G. W. Bachoffner?—I was not aware that Mr. Pepper had been consulted. As I before observed, Mr. Clapperton placed in my hands, not one sample, but four different samples, of flour; some of those flours contained alum, and others did not.

4409. *Chairman.*] I do not understand you as denying at all that Mr. Clapperton may have consulted other persons?—Not at all. Mr. Clapperton stated in his evidence that a mistake had been committed, had been acknowledged, and was not withdrawn. I, in reply to that, state that no mistake occurred; therefore nothing could be withdrawn, and nothing was withdrawn.

4410. Mr. *Moffatt.*] Are you aware that Mr. Clapperton stated that the sample of flour from which the bread was made, in which you found alum, was submitted to two other chemists, and they found no alum?—The samples of flour which were furnished to me, in which alum was present, were not submitted to any other chemist. Whether Mr. Clapperton took samples of the same flour to other chemists, and asked them to examine it, I cannot state; but no portion of the flour entrusted to my care was examined by either Mr. Bachoffner or Mr. Pepper.

4411. You are not aware that Mr. Clapperton does state most expressly and distinctly that the flour was taken from the same bulk which the other two chemists examined?—I am merely desirous that it should not be understood by the Committee that a portion of the flour entrusted to myself for analysis was sent by Mr. Clapperton to other chemists for the purpose of analysis, and was not found to contain alum.

4412. Are you aware that Mr. Clapperton complained to the Committee that he endeavoured to test the accuracy of your analysis by getting from you or from Mr. Wakley a portion of the substances which had been submitted to you for analysation, and that Mr. Wakley refused to give up either of those substances?—I cannot say what transpired with regard to the refusal to give up a portion of the bread. I only know this, that Mr. Clapperton waited upon me on the subject; I gave him every information that I could. I investigated the case for him as fully as possible, and he expressed his entire satisfaction at the way in which he

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had been treated throughout the case. His own satisfaction is expressed in print in the report contained in the "Lancet," made in 1851, and to which I have already referred.

4413. Mr. *Sheridan.*] Did Mr. Clapperton ask you to return any portion of that flour?—I do not remember whether he did or did not. A question might arise in such a case, how far it would be proper to give up to any person making the application a portion of the bread upon which a report had been founded; it might be quite proper to place that bread in the hands of parties mutually agreed upon, but it might not be proper to give it to any one who applied for it.

4414. *Chairman.*] There is one point to which I wish to call your attention, because it affects, to a considerable degree, the value of your evidence with regard to your microscopical examinations. It has been stated to the Committee that it is impossible for any one to carry on effectually more than about 20 or 30 examinations a week; that even those 20 or 30 examinations a week would occupy several persons; now if that is the fact, it is quite clear that the number of microscopical examinations which you have carried on could not have been carried on by yourself; as that places your evidence in rather a peculiar light, I should be glad to hear from you some explanation that there is an error in supposing that microscopical examinations cannot be carried on to a greater extent than 20 or 30 a week?—One great advantage in the employment of the microscope in the detection of adulteration is the greater comparative rapidity with which results may be arrived at. As to the number of microscopical examinations which may be made by one person in the course of a week, that will depend upon the skill and knowledge of the examiner, and also upon the nature of the article examined. In the course of the publication of the reports in the "Lancet" my practice was, to examine some 20 or 30 samples, on the average, microscopically, per week, and to report upon those. But at the present time I think there is scarcely an article of consumption upon which I could not undertake to give a satisfactory report to the extent of 100 samples per week at least. I am speaking within bounds; and if it were a case of great urgency I could increase the number considerably. Where you have chemical details to deal with, and chemical analyses to make, the reports would sometimes occupy some weeks, and even months; some of the reports in the "Lancet" took as much as six or eight weeks to prepare; some of the microscopical reports were prepared in the course of a week or a fortnight. I should mention, that before the publication of the first report in the "Lancet," a stock of reports were prepared in readiness; because the reports appeared weekly, it does not follow that those reports were prepared and written within the week; they were prepared in advance usually.

4415. Virtually, at the present moment, you could conduct as many microscopic examinations as 100 a week?—There is scarcely an article of consumption which I could not examine to the extent of 100 samples a week readily.

4416. Mr. *Peacocke.*] Could you procure assistance by allowing other persons under your superintendence to do the mechanical part of the analysis?—No doubt; it would not be difficult to find others who could even make, in most cases, acccurate microscopical observations.

4417. Then the responsibility would not rest upon yourself?—To a certain extent others could do the rougher part of the work; they could put up the objects in slides, and state that they found such and such things to be contained in the samples. Nothing would then be necessary for me to do but to go over their results, and ascertain that they were accurate.

4418. Could you ascertain that as truly as if you had gone through the analysis yourself?—By a certain well-regulated plan of proceeding I could.

4419. By adopting that system could not you make more than 20 or 30 microscopical examinations a week?—By following that system I could make some 200 or 300 examinations a week.

4420. Is there any test by which you can detect the presence of cocculus indicus in beer?—There are tests given for the detection of cocculus indicus in beer; but to a great extent they are not to be relied upon; the analysis is a very laborious one.

4421. With regard to the use of cocculus indicus in beer, I asked Mr. Rodgers, who was examined on the 9th of April, this question: "Is there any test by which you can detect the presence of cocculus indicus in beer?" His answer was, "Yes; it is most troublesome, but at the same time it is most conclusive; the form of the crystal of cocculus indicus is very conclusive as to its presence; the plan of proceeding

proceeding is to separate everything from the beer but this alkaloid of cocculus indicus; this picrotoxine bears the same relation to cocculus indicus that quinine does to bark; it is in a very definite form, and after getting it into such a form you could get it to a liquid condition, and subject it to microscopic examination. It is known that beer ought not to contain anything that will give a crystal, anything like the form of that which is found in beer containing cocculus indicus. I might remark that Mr. Herapath, of Bristol, has repeatedly done. The investigation is a laborious one, and occupies a great deal of time, and therefore unless there is some definite object in view it is rarely done." Do you concur in that statement?—I think that evidence, in the main, is correct; it is possible to detect cocculus indicus, but it is a matter of extreme difficulty, and requires very prolonged examination of the beer to arrive at a satisfactory result. It was Dr. Herapath who suggested that method of examining beer for cocculus indicus, and in his hands the thing could be done more readily than in the hands of a less experienced person.

4422. You think that answer is on the whole correct?—Yes. I should place great faith in any statement emanating from Dr. Herapath.

4423. The evidence to which I have called your attention was from Mr. Rodgers?—It is founded on Dr. Herapath's investigations respecting the detection of cocculus indicus in beer.

4424. *Chairman.*] Have you thought of any form of words by which adulteration can be defined?—I have bestowed some consideration upon the question as to what constitutes adulteration; but although it is easy in general to decide whether any particular addition to any substance constitutes an adulteration or not, it is not easy so to frame a definition as that it shall apply to every case of adulteration. Perhaps, in order to render the definition I am about to give a little clearer, it may be well for me to explain what does not constitute adulteration in the first instance. The sale of one article in place of another is not an adulteration, but a substitution. Again, the presence of substances in articles in consequence of impurities contained in the materials out of which they were prepared, as, for example, arsenic in the hydrochloric acid, used in the preparation of unfermented bread, does not constitute adulteration. They are simply impurities or contaminations. Lastly, the accidental presence of substances in any commodity, of course does not constitute adulteration. Excluding, then, from the class of adulterations all cases of substitution, of impurities and accidental contaminations, "Adulteration may be defined to consist in the intentional addition to an article, for purposes of gain or deception, of any substance or substances, and the presence of which is not acknowledged in the name under which the article is sold." This definition certainly embraces the great majority of adulterations, and it does not include impurities and accidental contaminations, because it specifies that the addition must be wilful and intentional. This is merely an attempt at a definition, and it is very possible that upon further consideration of the question, a better definition than this might be proposed; but, as far as I can see my way through the matter, it is the best definition that occurs to me.

4425. Mr. *Wise.*] Whilst you have given this definition of adulteration, would not you endeavour to divide it, first, by stating the adulterations that are prejudicial to health; and, secondly, those that are simply commercial frauds?—That would be a sub-classification of adulteration; I think it would be very desirable to classify adulteration, and to specify those that are particularly injurious to health, discriminately between those and others which are simply frauds.

4426. But in legislating upon the subject, or in giving instructions to public officers, would it not be a difficult matter to give the same instructions with regard to adulterations which were injurious to public health, and to those that were simply questions of public morals?—I think a distinction should be made between the two sorts of adulteration for various purposes.

4427. Could this Committee mix up the two questions?—I think they could decide that a certain number of adulterations were prejudicial to health, and that a certain number of other adulterations were simply fraudulent.

4428. Could this Committee undertake to legislate without reference to what adulterations were prejudicial to public health?—I should think so. I may not perhaps quite apprehend your question.

4429. I mean that some cases of adulteration or admixture may relate to the cloth that is used for making a coat, and a variety of other adulterations may be

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prejudicial to public health; those would require some specific definition?—I limit my definition of adulteration to articles of consumption, to food and medicines; I have not gone into the wider question of adulteration in textile fabrics, and so on.

4430. Mr. *Peacocke.*] Would not it be a matter of evidence at the time of trial, rather than for the Legislature to offer any specification upon the subject? —It appears to me that it would be well to have some specification drawn as a guide.

4431. To whom?—To the authorities employed who had to deal with the question of adulteration, and it would be a guide to magistrates; there would be an Act of Parliament relating to the subject of adulteration, conferring certain powers, and authorising certain penalties.

4432. Viscount *Ebrington.*] For instance, the substitution of wheat flour, which is innocent in itself, for some drug which is intended to have active operation, becomes most prejudicial to health, not by its presence, but by the absence of what it displaces?—No doubt.

4433. Therefore do not you consider that any adulteration of drugs retailed should be placed in the category, supposing that sub-classification to be made, of pernicious and deleterious adulteration?—Indirectly they are undoubtedly most injurious adulterations.

4434. *Chairman.*] There is one adulteration to which I do not think your definition applies very closely; that is an adulteration of this kind, where to an article of consumption a foreign substance has been added for the purpose of cheapening the compound; and where the public purchases that compound at a rate much lower in consequence of the cheaper material being put into it; take for instance, coffee and chicory; we will assume the value of chicory is one-fourth of the value of coffee; if coffee mixed with chicory is sold proportionately cheaper, is that an adulteration with which you think the Legislature should deal?—It depends upon whether the fact of the presence of chicory in the coffee is acknowledged or not in the name under which the article is sold. If the coffee were to be sold, although it contained chicory, without any acknowledgment that it contained that substance, it would come under the classification I have given. If it is sold labelled as a mixture of chicory and coffee, then it would not come within the definition I have given.

4435. Are the Committee to understand you to mean that every article not precisely a genuine article should be sold as a mixture?—It should be sold for what it really is, so that there should be no deception with regard to it.

4436. Mr. *Peacocke.*] In making up certain commodities, are not three or four articles often necessary; would you propose to specify them on paper?—The number of mixed articles of consumption is not considerable; the mixtures of drugs are known and acknowledged mixtures.

4437. *Chairman.*] You gave on the former occasion, when you were examined, your general views as to the remedy for this state of things; have you reconsidered the matter since you were before the Committee on the former occasion?—I have to some extent.

4438. Have you any further suggestions to offer?—I think the suggestions which I then made, in the main, were such as I should be disposed to suggest again if it were necessary that I should repeat them; but one other suggestion of some importance has occurred to me recently, and that is, that it should be rendered imperative on persons convicted of giving false weight, or selling adulterated articles, that they should keep a placard, (perhaps it is not judicious to introduce the question of false weight, but it is a matter which is of great consequence, and which might easily be dealt with at the same time), containing the text of the judgment condemning them, posted up in the most prominent part of their windows, for three, six, nine, or twelve months at a time, according to circumstances; I think that this would be a very inexpensive method of punishing adulteration, and I can hardly conceive that any method would be more effectual; I am told that it is about to be enforced in France.

4439. Viscount *Ebrington.*] Have you considered at all the relative advantages and disadvantages of systems of inspection, the one emanating from local authorities appointing a small number of persons to look into adulterations in general, and a system of allowing a more general authority, with a wider area of jurisdiction to appoint a greater number of persons, each to inspect some one particular

particular class of adulterations, extending their inspection over a wider area?—It seems to me that there should be some central authority, in the first instance, under the control of the Government, but that the local appointments, the appointments extending throughout the chief towns and cities, might be under the control of the local authorities, subject to the control of the central Board, to a certain extent. I think the expense of any machinery that was put into operation for checking adulteration might be so devised that it should fall principally upon the local authorities.

4440. You see the disadvantages which may attach to a small number of inspectors having each of them the charge of examining into a great number of articles, namely, the disadvantage of less expertness, and less knowledge with reference to each article; do you think that that disadvantage would be more than compensated by the advantage of diffusing the authority in such matters amongst local authorities, instead of centralising it in the State?—I think it should be diffused amongst the local authorities as much as possible; at the same time I think there would require to be a head somewhere to regulate the operations of all the local officers who might be appointed.

4441. Do you attach very great importance yourself to great expertness in examining and knowledge of the qualities of the different articles of consumption, as qualifications for the duties of inspectorships?—A certain amount of knowledge upon that subject should be possessed, although I think it is very difficult in any case to decide as to whether an article is adulterated simply by its outward and ordinary characteristics. Very few persons would feel competent to declare an article to be adulterated from its smell or taste, although they might make a very good guess.

4442. Do you attach very great importance to an intimate knowledge of the qualities, prices, and so on, of the different articles as facilitating the choice of samples for careful and accurate analysis or examination?—I think it is very desirable that the persons who are appointed to obtain samples of articles which are suspected to be adulterated, should have a full knowledge of the properties of those articles in a genuine state; it would much facilitate their labours.

4443. You see the advantages of that expertness; can that difficulty be reconciled with very narrow areas of jurisdiction, such, for instance, as the municipalities of our small towns?—In the larger towns I should imagine that persons could be met with who were accustomed to appreciate the qualities of different articles in their genuine state, but perhaps not in the smaller towns.

4444. *Chairman.*] Do you think the scientific staff of the Board of Inland Revenue could be so adapted as to meet any of the purposes which you desire to be accomplished by your central Board?—I think it could be adapted to that purpose very well; it would be necessary that it should be re-constituted to a certain extent, that is, the sphere of its operation should be enlarged; it should take cognisance of many matters that it does not now; it now merely takes cognisance of adulterations occurring in exciseable articles; its powers do not even extend to duty-paying articles. There are a number of articles, the duty upon which furnishes a large revenue, the adulteration of which is not attended to at all by the Excise; for instance, the adulteration of spices, of liquorice, and many other articles.

4445. Viscount *Ebrington.*] The Excise view adulteration in its relation to the revenue, rather than to public health and morality, do not they?—Yes, and not fully as regards revenue; of many articles which furnish revenue, it does not make any examination for the purpose of detecting adulteration.

4446. I would rather say the branch of revenue connected with their own department?—The articles that come under their supervision are, I believe, only the following: spirits, including beer, tea, coffee, cocoa, pepper, tobacco, and snuff.

4447. Mr. *Wise.*] Is there not one great element in the prevention of adulteration of which the Excise do not avail themselves, namely, publicity?—Yes.

4448. The Excise rarely publish the names of those who are guilty of breaking the law?—Except the case comes before the constituted authorities in the ordinary way in the form of a trial.

4449. Do not you think that publicity, such as is laid down in the Bread Act, that is, publishing the names and residences of offending parties, would have a greater effect in checking adulteration than anything else?—Yes, undoubtedly.

4450. Do not you think if the substance or a précis of the Bread Act, which

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is now apparently obsolete, were published, it would be a great advantage to the public?—Yes.

4451. Are you aware that in Paris there is a schedule published every year by the prefect of all articles that shall not be used in colouring, in mixtures and in other things?—Yes. I am quite satisfied that the most effectual check to adulteration which can be devised is by a well-regulated system of publicity, making the parties who practise adulteration personally responsible.

4452. Is not that a much better system than imposing heavy fines?—Fines hitherto have been found to fail in accomplishing their object to a great extent; they do not accomplish the object so fully as it was hoped they would have done. There has been a system of fines in operation for a great many years in regard to the Excise, yet you find adulteration still to prevail in exciseable articles; whereas since the system has been followed of publishing the names and addresses of the parties found to sell adulterated articles, adulteration has become less frequent. I consider I am greatly within the mark when I say that there is not one-twentieth part of the adulteration prevailing at the present moment that did prevail four or five years from this time. I attribute that to the frequent and repeated exposures which have taken place of adulteration, and to the fact that adulteration has been brought home to the persons practising it; their names have been more known to the public.

4453. The question of fraud being of so much importance to the public, do not you think it might be desirable for a learned commission, composed of such men as Mr. Graham, Mr. Redwood, and others, to be appointed to look into the effect of alum in bread, and into the adulteration generally of food in the metropolis, and the large towns of this kingdom?—I should have some doubt of the good effect of any commission of that kind that was not constituted in a very careful manner, and did not embrace a considerable number of persons. I think a report emanating from two or three men, even if men of great names, who had but little practical acquaintance with the subject, would do more harm than good; I have seen the mischief of such a proceeding in several instances.

4454. Do not you think, with respect to the use of alum in bread, which has been so much disputed, the report of a learned commission would be useful?—A commission to inquire into that particular subject, provided it were large and embraced the proper men, would be useful, although nearly the whole of the evidence already given seems to go in one direction, which is to show that alum in bread is prejudicial to health.

4455. How do you account for the extraordinary apathy in the metropolis in reference to the Act relating to the adulteration of bread?—Every person is so engaged in his own affairs that he has no time to devote to such things, although they intimately concern him.

4456. Have you ever seen a loaf in London marked with a large M?—Never.

4457. Mr. *Moffatt.*] I had not the advantage of being present when you gave evidence on the 13th of July 1855, consequently there are a few questions which I am anxious to put to you. First, in reference to the evidence which you gave on that day, in which you spoke of the general and almost universal adulteration of articles of food; what number of samples did you test to enable you to arrive at the conclusions stated in the evidence you gave on that day?—The number of samples varied in different cases, and with the article reported upon. I may state, generally, that they varied from something like 20 to, in several instances, 50, and in one or two instances 100 samples.

4458. Of one article?—Yes.

4459. Making a total, perhaps, of 3,000 or 4,000 samples altogether?—I think the total number was between 2,000 and 3,000.

4460. Can you inform the Committee what proportion of your analyses of those samples you obtained by the microscope, and what proportion by other tests; in the first place, what proportion were obtained by the microscope?—That would require a special calculation; a very considerable proportion was obtained by means of the microscope; many results were obtained by chemical means; and, in many instances, both the microscope and chemical means were employed.

4461. What length of time were you engaged in making the analysis of these 2,000 or 3,000 samples, which enabled you to come to the conclusion that there was general and almost universal adulteration of articles of food?—Between four and five years.

4462. From the evidence which you have given with respect to many articles, it appears that it would require not only one analysis, but a great variety of analyses, to ascertain the facts stated in reference to the foreign substances contained in very many of the articles indicated in your first evidence; is that so?—The conclusions which I detailed to the Committee in my first evidence were founded upon the examination of a large number of samples of the same article.

4463. Take annatto; you state annatto to be adulterated with chalk, wheat flour, rye flour, salt and soap, for bulk and weight; does not it require, in each of those cases, that you should analyse annatto in bulk, and then all the component parts which you found in the annatto?—It certainly does not require that; for instance, if I wish to ascertain whether wheat flour is present in any substance, the mode which I should pursue to get at that result would be to examine it by the microscope; and if I saw those characteristics which distinguish wheat flour from other kinds of flour, it would be sufficient evidence to me that the sample in question contained wheat flour.

4464. You would, in the first instance, analyse the annatto by the microscope?—Yes.

4465. Would it not be necessary to make a separate analysis, to distinguish between wheat flour and rye flour?—Those flours are best distinguished by means of the microscope; a separate observation only is required by the microscope.

4466. Viscount *Ebrington.*] That is to say, when you see certain forms of substance, you recognise them as wheat flour, or rye flour, or barley meal, just as in looking round a room you distinguish certain persons by their countenances?—Exactly; your Lordship's illustration meets the case exactly.

4467. Mr. *Moffatt.*] You stated in your former evidence, that "anchovies are mixed with Dutch, French, and Sicilian fish;" how did you arrive at that conclusion?—Dutch fish are well known in the trade; they are very much larger than the true anchovy; they have never any scales upon them; it is easy to tell Dutch fish when you are once acquainted with them; the Dutch fish is three or four times larger than the ordinary anchovy. If you show a dealer a sample which contains Dutch fish, he will have no difficulty in recognising it as such, and so with Sicilian fish.

4468. Are you sure of that?—It is well known that Sicilian fish are used in the adulteration of the real Gorgona anchovy. In my analyses, in no instance, so far as I remember, did I state that a sample of anchovy contained Sicilian fish, but in several instances I did state that the samples contained Dutch fish. I stated that Sicilian fish were employed in the adulteration of anchovies upon general evidence, and that it is so, dealers in those articles will inform you.

4469. Are the Committee to understand that in the evidence you have given you are stating only what you know of your own knowledge, or that it is partially upon your own knowledge, and partially upon hearsay, and what you have understood from other people?—In 999 cases out of 1,000 I may state that I have only given to the Committee evidence of which I have distinct personal knowledge, and not from hearsay. In some instances it is possible that I may have referred to the evidence and statements of others in illustration of any remarks which I may have had to make.

4470. You state bread to be adulterated with "mashed potatoes, alum, hards, and sometimes, though rarely, with sulphate of copper;" how often have you found sulphate of copper in bread?—I have never found sulphate of copper myself in bread, but there is undoubted evidence of the fact that sulphate of copper is used in bread making; I believe that it is used largely in Germany and France, and that it is prohibited, under special penalties, from being employed.

4471. Were you understood, when you came to give evidence, that you were speaking to what was done in Germany and France, or were you understood to be giving evidence exclusively as to the adulterations which obtained in this country?—I spoke chiefly, indeed almost entirely of adulterations which obtained in this country.

4472. Is it to be understood that the practice of adulterating bread with sulphate of copper does obtain in this country, or only in Germany and France?—I believe that adulteration of bread with sulphate of copper is very little practised in this country indeed.

4473. Have you ever, of your own knowledge, known bread to be adulterated with sulphate of copper?—I have found copper in bread; I could not say whether it was there as sulphate, or whether it was intentionally introduced; so particular

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are they in France with regard to the adulteration of bread, that they will not allow copper scales to be used to weigh it in; and sometimes, if you met with copper in bread in this country, the scales may possibly explain the source of the copper.

4474. Do you think it is strictly accurate that any one should come to this Committee and state that bread is adulterated with sulphate of copper, of his own knowledge, and subsequently state that this has been done in France and Germany; it appears from your evidence that, so far as your knowledge goes, bread is never adulterated with sulphate of copper?—Not exactly that. I have met with copper in bread; whether it was put there intentionally or not I cannot say; I know it to be used abroad, as I have stated, and that it is an adulteration which is really practised.

4475. Are the Committee to understand you, in bringing before them this terrible list of adulterations, to imply that it is really a list of adulterations which occur in foreign countries, as well as in England?—Such would undoubtedly be a very wrong opinion for the Committee to form. I may have mentioned one or two instances of adulteration that do not apply to this country; but in 99 cases out of 100 the adulterations described by me apply to articles sold in this country, and to articles which were analysed in this country.

4476. You have informed the Committee that butter is adulterated with water; do you mean to say that the presence of water in butter is to be regarded as an adulteration?—If water were added intentionally, and mixed up intentionally with the butter to increase its bulk and weight, I should most decidedly consider it to be an adulteration.

4477. Is it in the ordinary process of dairying possible ever to produce butter without water being in it?—A certain quantity of water, or rather scum of the milk is usually present; but if the quantity of water is very large, and amounts to one-third of the article, it would not be likely that that quantity of water found its way into the butter in the ordinary process of churning.

4478. Viscount *Ebrington*.] Do you consider the mixture of water with spirits to be an adulteration?—I do.

4479. If water is intentionally used for the purpose of defrauding the customer, you consider that would apply equally to butter?—Certainly.

4480. Or to wetting coals?—Yes.

4481. Mr. *Moffatt*.] What quantity of water would you say should be the legalised quantity of water to be used in butter?—I am not prepared to say what should be the legalised quantity of water in butter; but if I found that a sample of butter contained one-third of water, I should be disposed to say that that quantity of water never got there by fair means.

4482. What is the maximum quantity of water you have found in butter?—I find it vary exceedingly; sometimes there is not 10 per cent. of water; it depends upon the condition of the butter altogether.

4483. Have you ever found butter with not three per cent. of water?—I cannot remember that I have.

4484. Have you tested butter to ascertain the quantity of water?—Yes.

4485. Would you consider 10 per cent. to be a very large quantity of water in butter?—No, not a very large quantity.

4486. What is the largest quantity you have found in butter?—It is difficult to say; I have found various quantities; I could not always draw the line as to the quantities legitimately there, and those that were not legitimately there. Where the excess of water was great, there could be very little chance of error in the conclusion arrived at.

4487. Do you consider something over 10 per cent. of water in butter an excess?—I have mentioned twice that I consider a third a great excess.

4488. You would not deem a fifth a great excess, would you?—I am not prepared to say without going more fully into the question.

4489. It has been given in evidence before this Commitee that butter is imported from Holland in which a great quantity of water was found; what would you propose should be done with that butter?—If that butter contained a third or more than a third of water, I should look upon it very suspiciously indeed.

4490. How would you deal with it?—In the same way that I would with any other case of adulteration; but I should take care that the premises upon which I proceeded were correct.

4491. Assuming

4491. Assuming that a cargo of butter was sent from Holland which contained 30 per cent. of water, you would have inspectors, to ascertain the quantity of water in the butter?—If such a case were referred to me, I should institute some careful experiments of my own, before I proceeded to deal with any particular case.

4492. Assume the butter to be sent from Holland, to arrive here, and found to contain 30 per cent. of water; how would you recommend the Committee should deal with that butter?—I should make no recommendation upon the subject, until I had gone carefully into it to see what I could safely recommend. I believe I could recommend that a third of water should be regarded as adulteration; but I should not make that recommendation officially or formally until I had gone into the question by actual investigation.

4493. Assuming that there was 30 per cent. of water, and assuming that you took it to be adulterated; what do you say is to be done with that butter?—That is a question open to a good deal of consideration.

4494. You have no remedy to recommend?—I do not know that I have made up my mind as to the exact remedy; I believe one remedy would be, that it should be returned to the parties who sent it.

4495. Would you prohibit the importation of butter into this country if it contained 30 per cent. of water?—If I had satisfied myself that it was there with a fraudulent intention I should.

4496. Viscount *Ebrington.*] Have you made up your mind whether it would be desirable to prevent the importation of damaged articles, or whether it would not be sufficient to deal with them when they came to be retailed to the public?—I almost think that it would be necessary to prohibit to some extent the importation of some articles that arrived in this country in an adulterated state. It would be hardly fair to make the mere seller responsible for adulterations practised by parties resident abroad.

4497. It would be very possible, would it not, by extracting the water which was in excess, to turn butter, even containing one-third of water, to a good purpose?—Yes, one might make a drawback in that case upon the article in proportion to the quantity of water it contained; that is another and a better remedy than the one I have suggested.

4498. Mr. *Moffatt.*] In your former evidence you stated that you found cinnamon adulterated with cassia; are you aware how cinnamon is most generally sold?—It is sold in the stick, and also in powder.

4499. Are you aware what proportion is sold in each form; whether a much larger proportion is not sold in stick than powder?—I am not aware of the proportion.

4500. Of course, having declared cinnamon to be adulterated with cassia, you know the appearance of the two spices in the stick?—Yes; I know the difference. I do not know whether any samples could be produced to puzzle me.

4501. It is a thing, in the knowledge of every one acquainted with the subject, that cinnamon in the stick cannot be mistaken for cassia, is it not?—Many persons are wholly unacquainted with the distinctions which exist between the cinnamon and cassia in the stick.

4502. Do you intend your evidence to go to the extent that you believe grocers frequently sell cassia in the stick for cinnamon in the stick?—I have no doubt they do.

4503. Have you ever bought cassia in the stick for cinnamon in the stick?—I have frequently.

4504. You stated in regard to cocoa and chocolate, that they are adulterated with flours of wheat and Indian corn, sago, potato, and tapioca; did you make separate analyses to get each of those articles?—I made separate observations with the microscope; the best means of detecting sago and most other flours or starches is by the microscope.

4505. Viscount *Ebrington.*] When you are once familiar with the aspect of those different articles under the microscope, it does not require repeated observation, but one observation with the microscope, to say that in such a corner there is a bit of tapioca, in another a bit of sago, and in another a bit of wheat flour?—If the observer is well acquainted with the character of the different articles, a mere glance is all that is necessary to enable him to identify them.

4506. Mr. *Moffatt.*] Is that the case with respect to the granulation of the flour of wheat and Indian corn?—Yes.

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4507. You go on to state with regard to cocoa, that it is adulterated with sugar; I presume you are alluding to manufactured cocoa; do you deem it to be an adulteration to put sugar into cocoa?—I deem it to be an adulteration under these circumstances, provided the article I ask for is supplied to me as cocoa; if I ask for cocoa, and the article supplied to me is an acknowledged compound in the same way as chicory and coffee are supplied under legal sanction, as an acknowledged compound, I should not consider that an adulteration; but if I go into a shop and ask to be furnished with cocoa, and I am furnished with a mixture of sugar and various kinds of starch, and which mixture contains very little cocoa, I should consider it to be an adulteration.

4508. Mr. *Sheridan.*] Is the analysis by the microscope a qualitative and quantitative analysis?—It is to some extent a quantitative analysis; you may get an approximate idea as to quantity, and you may often also form an opinion as to quality.

4509. Take the case of coffee and chicory (you not being able to detect chicory except by the microscope), could you regard it as a quantitative analysis?—To a great extent you could; you could form an opinion as to whether there was 10 per cent. or 30 per cent.; although one could not give the exact percentage.

4510. Mr. *Moffatt.*] Assuming that a substance was inserted in this manufactured article called cocoa or chocolate to very much improve the taste and quality of the article, would you consider that an adulteration?—I consider that every article should be that which it professes to be, as it is supplied to the purchaser. If a purchaser enters a shop and asks for a pound of cocoa, he ought to be supplied with a pound of cocoa, and not with a pound of a mixed article, containing various ingredients.

4511. Assuming that at the time you made your experiments sugar was at a higher value than cocoa; that a pound of sugar cost more than a pound of cocoa; in that case would you deem it an adulteration to insert some of the commodity which was of greater value for the purpose of improving the manufactured article which is sold to the public?—I should consider it was a deception if I asked for cocoa, and was supplied with an article which consisted of anything but cocoa; but I must say the facts, as far as I am acquainted with them, are not exactly as you state. I have never been supplied with a pound of cocoa at any time at the same price as that at which I could buy a pound of sugar; I have been always charged nearly double.

4512. I must ask you to apply your attention to the first cost of cocoa?—I would rather not speak to the first cost; I speak to the article which is supplied to the consumer.

4513. The question which has been put to you, assumed that the sugar cost the manufacturer a larger price than the cocoa, by 10 or 15 or 20 per cent.; in that case you are asked, whether the admixture of sugar with cocoa, seeing that it improves the article and makes it more palatable to his customer, you consider that insertion of a higher-priced article a fraud?—I should consider it a deception, if I went to a manufacturer of cocoa, desiring to have nothing but cocoa, and intending to put the sugar into it myself, if he supplied me with an article which had sugar already mixed with it.

4514. Mr. *Wise.*] Do you know the price of the pure cocoa nib?—Not exactly.

4515. One shilling a pound, would it not be in the rough state?—I believe about that price.

4516. Are not all cocoa pastes made from the cocoa nib?—Yes.

4517. So that in reality sugar would always be cheaper than the cocoa nib?—So far as my experience goes, I have found sugar to be much cheaper than cocoa.

4518. Do not you think the best protection to the public is to buy the cocoa nib, and not to buy the paste and powders?—Yes; I should mention that flaked cocoa is very frequently sold without its containing a particle of sugar or starch of any kind. To my taste there is no cocoa so good, so nutricious, or so palatable as flake cocoa. This genuine flake cocoa may be purchased at Ridgeways; I will tell you why I mention their names. They sent me some years ago samples of flake cocoa for examination; they informed me they bought the best beans they could obtain in the market, and they forwarded them to a cocoa grinder, but that they were not satisfied with the article returned to them. I examined the sample, and found it to contain a large quantity of wheat flour. I mentioned the fact

fact to the Messrs Ridgeway, and since then they have had a proper apparatus, some kind of mill erected on their premises, and they now prepare the flake cocoa for themselves; they sell it at a somewhat higher price; but a pound goes a great deal farther than a pound of the ordinary cocoa.

4519. What is mixed with the cocoa bean to make the flake cocoa?—It is only ground and milled in a particular way.

4520. It is the pure cocoa nib crushed?—It is the pure cocoa nib reduced to a fine paste.

4521. To save trouble to the customer?—Yes; you get the active properties of the cocoa more readily given up to water.

4522. *Chairman.*] If I understand your opinion rightly, you do not object to the mixture of different articles of consumption with materials of higher or lower value, provided the mixture is named, and the article is sold as a mixture?—I think that there would be no objection to that being permitted.

4523. What you object to is the article being sold as a pure article, whereas it is mixed with some inferior article, or perhaps in some cases with an article of superior value?—Exactly. The only objection I have to allowing extensively the sale of mixed articles is the question as to quantity; it is possible to make mixtures in all imaginable proportions, and when so made, it is a most difficult matter, in many instances, to decide upon the proportions in which the several ingredients are present in that article; in some cases it is easy, and in some cases it is utterly impossible; that is an objection which strikes me very forcibly. With regard to the present regulation affecting the sale of chicory and coffee, the public are not protected as to the quantity of chicory, and vast quantities of that substance are sold with the labels beyond what would be sold if the proportion of the two ingredients were known which exist in the different packages.

4524. Mr. *Moffatt.*] When you stated in a previous part of your evidence that cocoa was double the price of sugar, you intended that to refer not to the cocoa as imported, but to the manufactured article?—I spoke generally of the manufactured article.

4525. Do you know the price of raw cocoa as imported?—I was once acquainted with the wholesale prices, but I now forget them.

4526. The questions which I have put to you in reference to the comparative prices of sugar and cocoa, of course referred to the cost to the manufacturer?—I have but little acquaintance with the wholesale prices of those articles, and especially the variations in those prices from time to time.

4527. You stated in your former evidence that you had found curry powder coloured with red lead; what per-centage of red lead did you find in curry powder?—I believe I made no quantitative examinations of the amount of red lead present; but I found in many cases such complete evidence of the presence of that substance, that the quantity must have been considerable. I have made rough quantitative examinations, but not exact quantitative examinations.

4528. When you say considerable, what do you suppose is the maximum quantity of red lead that you have found in curry powder?—About one per cent. would be very considerable, and even half a per cent., because red lead is a very injurious substance.

4529. Mr. *Sheridan.*] Is that done by the microscope?—No, by chemical examination.

4530. Mr. *Moffatt.*] How much Cayenne pepper does a person take in the course of a year who is in the habit of using that condiment?—I do not know; in Cayenne pepper the quantity of red lead is much more considerable than in curry powder.

4531. What per-centage of red lead have you found in Cayenne pepper?—Four or five per cent., and even greater quantities than that.

4532. Viscount *Ebrington.*] Very small quantities of red lead would be most pernicious to health, would they not, if taken pretty regularly?—It would be difficult to name the smallest amount of red lead, which, introduced into the system daily, would not be injurious to it.

4533. It is on the cumulative principle?—Yes.

4534. Mr. *Moffatt.*] Have you found flour adulterated with anything but alum?—Occasionally bean flour and rice flour, not frequently; but many other adulterations have been detected in flour by other persons of a much more serious character than I have detected myself.

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4535. When you state both rum and gin to be adulterated with water, I presume you mean to say that they were not sold at the standard strength?—They were sold not only under standard strength, but I found them absolutely very weak as compared with other samples which I purchased at other shops possessing a higher strength.

4536. Are you aware that the flavour, both of rum and gin, if sold at proof strength, is not pleasant to drink?—I think if you purchased in the way I did, samples of rum and gin at diffetent retail establishments, you would not run much chance of getting samples up to proof strength. If you find 30 or 40 per cent. of alcohol in them, you are pretty well off as regards strength.

4537. Mr. *Wise.*] Are not rum and gin what are called fancy articles?—Yes; and they are greatly reduced by the addition of water.

4538. And therefore, perhaps, they are less injurious to public health?—I should think so; but it is not just to one's pocket to have those diluted articles sold at the price of the stronger.

4539. Viscount *Ebrington.*] You have very often found, have you not, less innocent articles introduced into spirits which have been depreciated in strength by water?—I was going on just then to observe, that in several of the weakest samples of gin and water and rum and water that I have procured, I have met with Cayenne pepper, and I think that is a very injurious addition to spirits of any kind. I believe alcohol itself is injurious enough, but when you add a powerful substance like Cayenne pepper, you make a mixture, the action of which few stomachs can long resist.

4540. *Chairman.*] Especially if the Cayenne pepper contained red lead?—Yes.

4541. Mr. *Moffatt.*] Can you inform the Committee in what per-centage you have found the existence of Cayenne pepper in spirits?—It is difficult to estimate the per-centage of Cayenne pepper quantitatively. The process I pursued was this: I evaporated the spirit in a water bath, and after I had got rid of all the spirit and water, I tasted the extract, and if I found it burnt my tongue very severely, I was satisfied that the quantity was considerable.

4542. Even then it would not have lost its power?—No; Cayenne does not lose its power by evaporation. Cayenne is more active in solution; the tincture of capsicum is intensely powerful; it is that preparation of Cayenne which is ordinarily added to spirits.

4543. Viscount *Ebrington.*] Is not Cayenne more powerful in a substance of high temperature than a low one?—Spirit itself is exciting to the stomach; but if that spirit were taken in hot water, the effect of the Cayenne would be more considerable than if it were simply a mixture of cold water and Cayenne.

4544. Mr. *Moffatt.*] You stated in your former evidence also, that you had discovered stout to be adulterated with water; do you recollect upon what ground you made that statement?—I do, very well; in the first place, I procured a certain number of samples of porter and stout from the brewers themselves; next I procured a certain number of samples from the brewers' tap, which are public-houses in connexion with the different large breweries in London; and in the third place, I procured a variety of samples from ordinary publicans. I compared the differences in the strength of those samples, and I found that the strongest porter and stout was obtained from the breweries; the next strongest was obtained from the brewers' public-houses or taps, and the weakest of all was from the ordinary publicans. I found some of these contained so small a quantity of alcohol that one could form no other conclusion than that the porter and stout had been reduced by the addition of water.

4545. In making those comparative analyses, did you take care to see that the stout you obtained from the brewer was the same stout, or drawn from the same tap, as that which you got at second-hand?—In one or two instances that was so; it was not so generally; it was impossible to do this in a general way; you cannot always ascertain what brewer supplies the publican of whom you make the purchases.

4546. Have you a standard strength by which you would determine whether stout had a portion of water in it or not?—There are no accurate standard strengths; when I obtained from brewers' taps porter twice as strong as another porter obtained from an ordinary publican, I felt that I might safely draw the conclusion that it had been reduced in some way. I may mention that the evidence of strength was not the only evidence upon which I went in all cases before coming

to

to a conclusion upon that point; in some cases one could detect by the character of the extract left that there had been treacle, sugar, and salt used.

4547. Viscount *Ebrington.*] You draw your inferences partly from the presence of articles which were intended, in your opinion, to compensate, by their flavour, for the absence of strength, in what was sold as stout and beer?—Undoubtedly.

4548. Mr. *Moffatt.*] Do not you think it was quite possible that one brewer should make his stout half the strength that another brewer made his stout?—With regard to porter, I believe that is not the practice. I am not aware whether brewers make stouts of different qualities; brewers do not ordinarily make one kind of porter, which they supply for consumption at their own taps, and another kind to supply to the publicans; and when I found as a rule, that when I procured the porter of a brewer it was twice as strong as the porter I obtained from a publican, I was safe in the conclusion that I drew, that the porter of the publican had been reduced by means of water.

4549. I am seeking for information in regard to stout; you seem to reply in regard to porter; you have stated that you found one stout only half the strength of another stout; therefore, I presume you intend to inform the Committee that there had been an adulteration with water to the extent of 50 per cent.; would it not occur to you as quite possible that one brewer should brew stout of half the strength of the stout of another brewer?—I know that the same price was paid for the stout in all cases.

4550. It does not follow as a necessary consequence that the stout of the lower strength was adulterated with water to the extent of 50 per cent.?—It follows as a necessary consequence, that one did not get the same value as one ought to have done for the money.

4551. Does not it resolve itself into a question of buying and selling, as to who sells the best article?—No; some stouts were so reduced that it was not fair to the brewer to suppose that he had sent out such an article at all.

4552. Mr. *Wise.*] What is the difference between stout and porter?—They are beverages of the same character; the one is stronger than the other; the stronger is the stout, and the weaker is the porter.

4553. According to your statement stout is not the strongest?—It is the strongest.

4554. Viscount *Ebrington.*] In short, you use your own common sense in drawing inferences upon these subjects?—I endeavour to do so.

4555. *Chairman.*] And you believe that the common sense of the public would run pretty much in the same course; if you found an article one-half of the strength as an article of the same name sold at other places, you would conclude that it was adulterated with water?—Exactly so.

4556. Mr. *Moffatt.*] The public having an equally ready means of judging with yourself, does not it follow that they will take care and protect themselves; have not they common sense as well as you?—I have no doubt the public have common sense. At the same time, I may repeat a remark which I have made before this Committee to-day, that men are so occupied in their own immediate personal affairs, that they have but little time to bestow on the question of adulteration, and less knowledge to apply to it, even if they were willing to bestow the time and attention necessary.

4557. Your opinion is, that a labouring man is so occupied that he is not well able to judge whether his beer is 50 per cent. weaker than it ought to be or not?—I believe the labouring man is defrauded to an extent of which the rich man can hardly conceive, in the articles with which he is able to furnish himself out of the proceeds of his daily toil; he is more exposed to imposition from adulteration than any other persons.

4558. Viscount *Ebrington.*] The artful adulterations are constantly misleading him as to the strength and quality of the articles which he purchases, by the addition of articles that give him the impression of strength in spirits and beer, for example, which they do not possess, or the impression that coffee and tea, by colouring the water, have a strength which they do not possess?—That is the case undoubtedly, to a very large extent.

4559. Mr. *Moffatt.*] The question which I put to you was answered generally; I ask you again whether the poor man is not himself the best judge of the strength and quality of his beer?—I should say decidedly that he is not the best judge, for this reason: when the beer is so reduced by water, other things are

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added to bring up the flavour, such as salt and sugar; hence he may have an article furnished to him which satisfies his palate, without its containing that ingredient which gives value to the liquid which he drinks, namely, the alcohol.

4560. In your analyses with regard to porter and stout, I observe you do not include cocculus indicus; did not you find any cocculus indicus in those samples?—The reason why I did not include cocculus indicus is this, it is most difficult to detect it even if present. Some chemists have entertained, until recently, the opinion, that it was almost impossible to detect it. I believe it is possible, but most difficult, and I therefore did not carry my investigations so far as to be able to determine whether cocculus indicus was present or not. Upon general evidence which has been given, there is no doubt that one may safely say that cocculus indicus is employed in the adulteration of beer extensively.

4561. Have you not found it in your analyses?—I have not detected it by chemical analysis.

4562. Have you analysed a great number of samples of porter and stout?—I have analysed a considerable number at different times.

4563. Mr. *Sheridan.*] Can you say that cocculus indicus was not present in those articles?—I can give no opinion as to the presence of cocculus indicus from my own examinations.

4564. Mr. *Moffatt.*] In regard to the article of tea, you state that the public are greatly imposed upon by the use of exhausted tea-leaves, and leaves other than those of tea, British and foreign; by what experiments did you arrive at that conclusion?—With regard to exhausted tea-leaves, the evidence of the Excise returns furnishes proof; I have had samples furnished to me by the Excise which have been seized at different times. I have read cases in the newspapers of different seizures, and I have obtained samples of those articles. With regard to foreign leaves, I have met with them in tea myself, and identified them by means of the microscope with different leaves.

4565. Where did those seizures of exhausted tea-leaves take place of which you have given evidence?—I forget the particulars now of the different seizures; several are recorded in my work on adulteration, and others have appeared in the papers.

4566. What foreign leaves have you found in tea other than tea-leaves?—The plum, and several other leaves; some of the leaves I could not give a name to, but I could tell that they were not tea-leaves.

4567. How did you decide that they were not tea-leaves?—If I found a leaf of a different shape in the tea, or of a different structure, I judged that it was not tea.

4568. How do you discriminate the tea-leaf?—The structure of the tea-leaf is represented in my book, and the leaves of many other plants which differ from it, so that you can make no mistake.

4569. Is there any peculiar characteristic in the tea-leaf?—Yes.

4570. What is that peculiar characteristic?—It is all a question of comparison; there is no absolute characteristic in the tea-leaf by which you can identify it; but you can compare it with other leaves, and ascertain that it is not one of those leaves.

4571. Are you aware by any one test or condition what is tea-leaf?—I judge of the tea-leaf by its size, its shape, and the venation upon it (that is, the course which the veins take upon the leaf), which are sufficient often to distinguish the tea-leaf from a great number of leaves. I also judge of it by its structure as seen under the microscope, and if I find that all the characteristics agree, I am tolerably safe in my conclusion that it is a tea-leaf. But if, on examining a parcel of tea, I find a leaf that has none of the character of the tea-leaf, I conclude that it is not a tea-leaf.

4572. You judge partly by the size of the leaf?—Partly; that is one of the characters. The size of the leaf varies with age, but the venation does not vary, nor does the structure vary very materially or essentially with age.

4573. Is there any other mark upon the tea-leaf by which you distinguish it? It may be distinguished by chemical analysis.

4574. How would you distinguish the tea leaf by chemical analysis?—I should separate the active principle (the theine) process.

4575. What is the shape of the tea leaf?—It is shown in my book. (*Handing the book to the Honourable Member.*)

4576. Is

4576. Is the edge of the tea leaf smooth?—No, it is crenated.

4577. You stated in your former evidence that you had found samples of tea adulterated with the leaves of the sycamore, the horse-chesnut, and the plum; within what period did you find that adulteration?—With regard to plum, I found the leaf of the plum in a sample of foreign tea.

4578. Where was that sample obtained?—I forget the circumstance now; it is mentioned in my book.

4579. Was it a sample of tea that you found in use in England?—Yes.

4580. Do you mean that it was foreign tea purchased on the continent, or bought in England?—No, it was a sample of tea purchased in England.

4581. Why do you apply the term "foreign tea," when there is no tea grown in England?—It was not the spurious article which is sometimes manufactured in this country; it was not a British fabrication.

4582. Do you believe that there is any fabrication of tea to an extent to justify you in speaking of it as a manufacture in this country?—Various exposures have taken place of the manufacture of tea in this country from time to time. Within a very short period the Excise received information of no less than seven or eight manufactories of British tea.

4583. What happened then?—The cases were prosecuted, and I hope it has had a good effect in checking the manufacture.

4584. Was it proved that the tea was manufactured?—Yes.

4585. To what extent was it proved?—The cases were fully proved.

4586. Have you any information to give as to the quantities manufactured?—I do not remember the quantities now, but it was upon a large scale; some hundreds of pounds, or hundredweights.

4587. Surely you would not call 100 lbs. a large extent in speaking of an article of which between 60,000,000 lbs. and 70,000,000 lbs. are consumed?—If from time to time exposures were to be made, and the fact made known that manufactories were in existence for fabricating tea, and the persons entering upon the premises, and making the discovery, found there hundreds of pounds of leaves in the process of preparation into spurious tea, I should say that was rather an extensive fabrication of tea.

4588. Where was this?—There are some eight or ten cases mentioned in my book.

4589. Without reference to your book, will you give the information from your own knowledge?—I do not remember the places or dates exactly on the moment.

4590. How long ago was it?—Within the last two or three years.

4591. In what part of the country?—There was a case at Liverpool, I believe, within two or three years, and there have been one or two cases in London. Only the other day, going up Rupert-street, I made an observation which was rather suspicious, with regard to the fabrication of tea from exhausted tea leaves; there was a beggar man going along the street with one or two of his children with him, and another child running behind with a large washing jug in her arms full of tea leaves; it was not likely that those tea leaves were required for the purpose of dusting a house, but it was much more likely that they were intended for some illegitimate purpose.

4592. If they were beggars, was not it likely that they would get those partially exhausted tea leaves to make tea for themselves?—There were enough leaves to make tea for a good number of people.

4593. Is it upon the assumption of seeing that poor man with his child carrying a basin of tea leaves that you conclude an extensive manufacture of exhausted tea leaves is going on in this country?—I should not venture to found such a wide conclusion upon such a fact; but if I met a person collecting exhausted tea leaves, I should be apt to suspect that it might not be meant to apply them legitimately.

4594. *Chairman.*] Especially if you knew that manufactories did exist in which exhausted tea leaves were prepared for sale?—Yes.

4595. Viscount *Ebrington.*] And you infer that for every pound seized, a great number of other pounds had been sold to the public?—Yes. Mr. Phillips described the way in which exhausted tea leaves are procured; he says that children are sent about, calling at the houses and hotels, to get possession of the leaves; and the case of the beggar and his child, to which I have referred, seems to me to be a case of that character.

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4596. Mr. *Moffatt.*] Did your great zeal for public health and public morals induce you to follow up the track of that beggar and his child, and see what became of the tea leaves?—I am afraid I must urge, in excuse for not having done so, that I was too much occupied with my own private affairs to go further at that moment into the question.

4597. You also stated, in your previous evidence, that tea is flavoured with sulphate of iron; when did you make that discovery?—I have had samples of tea sent to me which contained sulphate of iron; and teas have been met with by the Excise containing sulphate of iron.

4598. Could you discover the sulphate of iron?—Yes.

4599. Did it appear to have been recently introduced?—One could not tell when it was put there.

4600. Had you chests of tea sent to you for analysis?—Only samples.

4601. Only half pound samples or so?—Exactly.

4602. With respect to the evidence upon which I have troubled you with a few questions, with the exception of red lead, is there any one of those adulterations which would be prejudicial to health?—Yes; I may refer you to that Table; a variety of articles are mentioned there, and many of them are undoubtedly injurious.

4603. I find a discrepancy between your evidence and that Table; for example, on that Table beer is said to be adulterated with cocculus indicus?—In 99 cases out of 100 the substances have been actually detected by myself, but not in every case; where evidence has been furnished of the actual detection of any injurious substance by another party I have included that substance in that Table.

4604. You state generally that you have found articles of consumption adulterated; do you by that phrase mean to imply that you found them adulterated to a large per-centage, or that you merely found in some cases traces of adulteration, and in other cases adulteration of a more extensive character?—I have generally specified whether the adulteration has been on a small or large scale throughout my analyses. When I speak of the presence of any article as an adulteration, of course there is a great deal of difference in the actual quantity; the quantity, to constitute an adulteration, is usually very large or very considerable; but the case is usually otherwise for a pigment or a poison; then the quantity which would be considerable for a pigment or a poison, would not be considerable if you took the quantity as representing a quantity of wheat flour, or any other article of that kind.

4605. Are the Committee to understand you to say that when so and so is adulterated with so and so, it is adulterated generally and very extensively?—Yes, as ageneral answer.

4606. Viscount *Ebrington.*] You state that a very small quantity of copper or red lead is a large adulteration?—Yes.

4607. Mr. *Moffatt.*] You have stated that flour is adulterated "with mineral white, or hydrated sulphate of lime;" do you mean to say that flour is largely adulterated with mineral white, or hydrated sulphate of lime?—I should think not; I merely record the fact that those substances have been found in flour, without specifying to what extent or how frequently.

4608. Will you now specify to what extent, and how frequently, flour is adulterated with those substances?—As I have already observed, I myself have not frequently detected those articles in flour; but continual exposures are taking place, especially lately in the daily papers, of the detection of those substances in flour; therefore one is perfectly justified in stating that those articles are employed in the adulteration of flour.

4609. But that is a fact of which you do not speak from your own personal knowledge?—Less from my own personal knowledge, but I have sufficient knowledge of the fact to know that they are used.

4610. Do you state that gin is adulterated with sulphuric acid of your own knowledge?—I state that upon the authority of another. I may state that it is not only upon one authority, but there are two or three authorities bearing upon the question of the use of sulphuric acid in gin. The quantity is small, but it is used.

4611. Lard you state to be adulterated with mutton suet, alum and potash; do you state that of your own knowledge?—Those statements are founded upon the observations

observations of Mr. Calvert of Manchester. I have found lard to be adulterated with potato flour.

4612. You stated in your evidence of the 13th of July 1855, that lard is adulterated with mutton suet, alum, and potash; did you make that statement of your own knowledge?—The alum and potash is on my own knowledge; the suet is not on my own knowledge.

4613. What proportion of alum did you find in lard?—One or two per cent.; the object of using alum in lard is the same as using alum in flour; it is to whiten the lard.

4614. Is it not used for the same purpose as salt is used in butter, namely, to preserve the lard?—I believe not.

4615. You go on further to state, that porter and ale are adulterated with grains of paradise; is that of your own knowledge?—No.

4616. You also state that porter and ale are adulterated with capsicum; is that of your own knowledge?—I may mention generally with regard to those things, that where evidence has been obtained of a satisfactory kind of the use of those substances, I have recorded the fact that they are so used. You must understand that the evidence is given there in a very condensed form. If I had coupled every statement with a full explanation of every particular connected with it, I should have extended it to a very considerable length.

4617. The perusal of your evidence is certainly calculated to excite considerable alarm upon the public mind. Are the committee to understand that the adulterations you have stated are not only those which you have discovered by your own personal observation, but also adulterations which have come within your knowledge by a diligent search throughout the records of the United Kingdom for those adulterations?—I think this will be the third time that I have stated that 99 parts of the evidence which I gave to the Committee related to adulterations discovered by myself, but that in some few instances, which instances you appear specially to have selected, I have spoken of certain adulterations upon the evidence of other parties; now that is a general statement with regard to the evidence which I gave before this Committee some time back.

4618. You state porter and ale to be adulterated with wormwood; is that of your own knowledge?—Again, with regard to wormwood, calamas root, carraway and coriander seeds, almond cake, and orris root, those adulterations are mentioned on the authority of others, but there is distinct evidence of the use of those substances; you cannot detect by chemical analysis those substances when they are introduced into beer, or porter, or ale, but you must rely upon the evidence of persons who have seen those things used, and known them to be used. We have evidence of the purchase of those articles by brewers, and they have been found in breweries, and we know by that kind of evidence that they are actually employed for the purpose of adulteration.

4619. The Committee are to understand with regard to the 22 substances with which you allege that porter and ale are adulterated, that the use of those articles is not within your own knowledge, but that you have gathered it from newspaper reports, the information of discarded servants, the discoveries of the Excise, and from other sources?—If the Committee were to form such an opinion, it would be very erroneous. I do not rely upon newspaper reports, or the evidence of discarded servants, with regard to the facts which I have brought under the notice of the Committee. I have mentioned adulterations practised upon certain articles upon good authority; when the authority seemed to me to be good, I mentioned those adulterations. Throughout my book, and throughout the reports in the "Lancet," I have always drawn a distinction between adulterations which I have myself discovered, and those which other parties have discovered.

4620. I am anxious that you should draw the same distinction in your evidence; therefore, I am putting these questions; of course, what you know of your own knowledge has greater weight with the Committee than what you know merely from collateral sources?—I beg to refer the Committee to Tables, which, I believe, are to be found in my former evidence; one of these a list of articles which I have actually discovered myself to be used for the purpose of adulteration; another a list of articles which others have detected, and shown upon distinct evidence to be used for the purpose of adulteration; and the third a list of substances said to be used for adulteration, but of the use of which no sufficient evidence has been adduced.

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adduced. I will read the headings of the Tables: "Classified list of various substances ascertained by myself to be employed for different purposes of adulteration, namely, for bulk and weight, for colour and for smell, for taste, and other properties." Then, "List of articles stated by others to be employed for different purposes of adulteration, but of the use of which no positive evidence has been adduced, although it is extremely probable that many of them have been and are occasionally had recourse to." "List of articles stated to be used, but not likely to be employed for the purpose of adulteration."

4621. You have stated in reference to chicory and coffee, that you have discovered coffee to be adulterated with chicory, although there is a fine upon the vendor of 100 *l.* in each case for vending such an adulterated article; that is the law as it at present stands, is it not?—That a person shall be subject to a fine of 100 *l.* who now sells chicory mixed with coffee without its being acknowledged upon the label of the packet.

4622. Notwithstanding that fine, your belief is that a mixture of chicory and coffee is frequently sold without the chicory being so acknowledged?—At the time I gave that evidence, that was done.

4623. Consequently the terror of a fine of 100 *l.* does not interfere with the buyer and seller agreeing between themselves with respect to what they choose to have?—I dare say the mixture is sold less frequently than it was formerly, without its being acknowledged to be a mixture. I should think that the fine has had some effect in checking the practice.

4624. Viscount *Ebrington.*] According to your experience, are heavy pecuniary penalties always effective in putting an end to an improper practice?—I am satisfied that they have not put an end to the practice of selling a mixture of chicory and coffee as coffee.

4625. You are aware, are you not, that there are very heavy pecuniary fines for bribery at elections, and that notwithstanding those fines, bribery still continues to exist?—Yes, I am quite aware of that.

4626. Mr. *Moffatt.*] In reference to sugar, you have given evidence of the presence of an insect called acari in great quantities; what proportion of those insects have you found in sugar?—I have found many dozens sometimes in a teaspoonful of sugar.

4627. Did you ever see any ordinary Muscovado sugar that did not contain those insects?—All brown moist sugars, as I have stated elsewhere, contain those creatures; but those brown sugars, which have been subjected to a refining process in this country, do not contain them; but I simply refer to the presence of those creatures in sugar as an impurity, and not an adulteration.

4628. In crystalline sugars, when imported, do you find the acari?—I am not sure with regard to crystalline sugars imported. I know that acari are not present in crystalline sugars manufactured in this country. I have scarcely found any sugars as imported which did not contain them.

4629. In your evidence of the 13th of July, you rather bring as a charge against the vendors of sugar that the sugars contain those "disgusting insects"?—I merely cited the fact of their presence to show that the ordinary sugars in sale were not of that degree of purity that was desirable, and that since those sugars contained acari, it was desirable that other descriptions of sugar should be encouraged, namely, crystalline brown sugars.

4630. Or that persons should purchase sugar after it has been refined?—Yes; and that there should be a better system of manufacture adopted both abroad and in the colonies.

4631. Would you propose that the Committee should recommend any legislation in that regard to prevent the use of sugar with acari in it?—I would recommend that a better system of manufacture should be adopted.

4632. *Chairman.*] Are those insects alive in the sugar?—They are both living and dead; all ordinary brown sugars have them, except the sugars which have been subjected to a process of refinement and crystallisation in this country.

4633. Viscount *Ebrington.*] All ordinary brown sugars contain more or less of them?—All ordinary brown sugars contain more or less of those creatures.

4634. Mr. *Kinnaird.*] Is there any cause for the existence of acari in sugar?—I apprehend the cause of their existence is the quantity of albuminous matter contained in the sugar, which is not removed from the sugar because the sugars have not been sufficiently carefully prepared.

4635. Mr. *Moffatt*] In your evidence with regard to the adulteration of tea by the colouring of green tea, is it your opinion that there is any substance, taking the quantity in which it is found in tea, that is likely to be prejudicial to public health?—I think Prussian blue is objectionable; it is well known that green tea does not agree so well with most persons as black tea. I am disposed to believe that the colouring may in some instances have something to do with the ill effects of that description of tea.

4636. Do you attribute the nervous excitement which is occasioned to some persons by their taking green tea to the presence of Prussian blue?—I do not say that it is attributable to the presence of Prussian blue. I only say that the circumstance of those teas being coloured, and not always coloured in the same way, is a suspicious circumstance. I think the fact that that sort of tea does not agree so well with persons as black tea is probably attributable to the method of colouring it.

4637. Do you refer to the admixture of a portion of turmeric?—Not to the turmeric, but to the Prussian blue, and in some cases other things. Unless the Chinese send over to this country tea less highly coloured, the taste for green tea will be utterly destroyed. I believe that the consumption of green tea, in proportion to the increase of the population, has diminished considerably of late years, since it has been known that green teas are never genuine.

4638. That is a sample of tea sent to me from the City this morning (*handing a sample of tea to the Witness*); will you favour the Committee with your opinion upon that tea?—It is very fragrant; it is rather different in the size of the leaf from what is usual. I could not, however, without microscopical and other examination, give any opinion upon it.

4639. Is it your opinion that it is tea or not?—I do not like to give an opinion off-hand; there may be something with it to give it the smell of tea.

4640. I find on the 13th of July you stated that "black lie tea is often coloured and extensively employed by our own dealers and grocers for the adulteration of green tea;" is that stated from your own personal knowledge, or is that something which you stated from hearsay?—I have found in various samples of black caper tea and gunpowder tea a certain quantity of lie tea.

4641. You state that it is extensively employed by our own dealers and grocers for the adulteration of green tea?—It has been purchased in large quantities. At one time it was imported in large quantities; it was permitted to pass the Excise; and I have been furnished with samples by wholesale dealers in tea, persons cognizant with the tea trade, accompanied with the information that so much of it was imported, and so much was for sale.

4642. In what year was that?—About 1851.

4643. What is the practice now, because it appears from your evidence as though that were the practice now?—I am not aware what practice prevails with regard to lie tea at the present time.

4644. You are only speaking of that which occurred five years ago?—I purchased on Wednesday last a sample of gunpowder tea which contained lie tea; who put it there I do not know; I know that it does contain lie tea.

4645. It has been stated in some previous part of the evidence, that lie tea had gone out of use; in what part of the evidence was it stated to this Committee that it would be impossible to get lie tea?—I believe a challenge was thrown out by one person who gave evidence before this Committee, and that it was asserted to be impossible to procure even 2 lbs. of adulterated tea now; I believe it was Mr. Abbis who made the remark.

4646. Mr. *Kinnaird.*] Is the fact of a large amount of adulterated tea being unsaleable owing to the attention of the public being drawn to the subject of adulteration?—I have no doubt that that is the case, if there is any large stock of tea unsaleable now, this arises from the exposures which have taken place.

4647. Mr. *Sheridan.*] In adulterations, are the ingredients so imperfectly mixed that one portion of the article might be more adulterated than another?—That may occur sometimes; but usually, if the substance be a powder, the mixture is intimate; if it be a solid substance, the mixture is less intimate, and you can often detect adulteration by finding little particles of the substances employed. In making a quantitative analysis, it is always well to observe closely the state the several articles are in, taking care that they are well mixed before using a quantity for analysis.

4648. You can make an approximate uantitative analysis by means of the microscope?—

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microscope?—You can; you can take a small portion of the article, being sure that it represents the condition of the whole article, and judge of the quantities approximately.

4649. Mr. *Moffatt.*] With regard to vinegar, you stated that you had found sulphuric acid present in immense quantities. What are the Committee to understand by the term "immense quantities"?—Sulphuric acid is one of the most powerful articles known; so powerful that when it comes in contact with paper or wood, or other organic matters, they become charred, that is, reduced to charcoal. Therefore, when speaking of an article of that kind, one would be justified in speaking of the quantity added as being considerable, even where the amount actually added did not exceed three or four parts in 1,000. I should consider that to be a very considerable quantity to be present in 1,000 parts of vinegar, and in an article of consumption of that kind, sufficient to be prejudicial to health.

4650. In reference to the grape sugar being found in sugar, you do not consider that an adulteration, I presume?—No, that is there from natural causes, although it was not believed until recently that cane sugar ever contained grape sugar naturally. I should state, however, that instances have been known in which glucere or grape sugar has been made in large quantities, and expressly for the adulteration of cane sugar.

4651. In the evidence you have given to-day you have stated that Liebig recommended the use of lime-water in bread?—Yes, in very small quantities.

4652. Is not that an adulteration?—I think its use is very unnecessary. I merely mentioned that he had made the recommendation that lime-water should be employed in small quantities in bread when it was considered desirable to obtain very white bread, and that the use of that substance was free from the objections which apply to alum. I do not recommend the use of it at all myself.

4653. You have also stated to the Committee to-day that chicory is an aperient; is that your belief?—It is my belief, founded upon some observations and experiments of my own, and it is also my belief, from evidence given me by others; if the practice in France be such as I have stated to-day, it is very conclusive indeed as to the aperient properties of chicory.

4654. Mr. *Gregson.*] Is it not also diuretic?—The dandelion, which belongs to the same class of plants, is very diuretic; it is put down in works on materia medica, that the recent root of chicory is diuretic; whether the roasted root retains any diuretic properties, I am not able to say.

4655. Mr. *Moffatt.*] Are the Committee to understand, from the concluding part of your examination in chief, that you are not disposed to apply any remedy for the sale of one article for another; you would call it substitution?—I merely spoke of substitution as being distinct from adulteration; I gave no opinion as to whether it was a matter which called for legislative interference or not.

4656. If a vendor sells cassia instead of cinnamon, you do not think that is a thing which calls for legislative interference?—I think it does call for legislative interference.

4657. Viscount *Ebrington.*] It is not adulteration?—No.

4658. Mr. *Moffatt.*] If he mixes his cassia and cinnamon, do you think it is a heavier offence?—No; I think the offence, as far as I can judge of it off-hand, is about as bad in the one case as the other.

4659. Assuming cassia to be the least valuable article of the two, you think the offence of a trader who sells all the inferior article for the superior article, is equal to his selling half of the inferior article and half of the superior article?—The practice is bad in either case.

4660. Viscount *Ebrington.*] You would apply two different English words to describe those two offences?—Unless you were to exclude cases of entire substitution from adulteration, you could not frame a definition.

4661. Mr. *Moffatt.*] Any article used to improve cocoa you would still term "adulteration"?—I do not think that what I have said should be taken in that sense; I say that the article should be always what it professes to be. If you go into a shop, and ask for a pound of coffee or chicory, or cocoa, you have a right to expect that you will be supplied with a pound of those articles, and not with mixtures sold under the same names, although it may be stated that the substances added are improvements.

4662. Take the article of wine: how would you define when wine is pure and when

when it is not pure?—I think the definition of adulteration which I have given would meet the case.

4663. What is that definition?—Excluding all cases of substitution, of impurities, and accidental contaminations; I consider adulteration may be defined to consist in the intentional addition to an article, for the purposes of gain or deception, of any substance or substances, and the presence of which is not acknowledged in the name under which the article is sold.

4664. If a Spanish merchant puts a few gallons of water into the wine which he sends, would you deem that wine adulterated?—That is rather a difficult case to decide upon without a standard.

4665. You have no standard fixed in your scheme?—There is no standard with regard to port wine.

4666. Or sherry?—No.

4667. Or wine at all?—No.

4668. Have you made any sketch or tariff of adulterations which you would suggest to the Committee should be adopted as a guide for magistrates?—I have not; I have drawn up some classified lists of articles, amongst others one of articles injurious to health.

4669. You would say if those articles were found in quantities, no matter how minute, in the commodities sold, that the vendor should be subjected to the penalty of having a placard of a particular kind in his window for a certain number of months?—Not because the quantities were minute, or the reverse; if a vendor were found guilty of intentionally mixing injurious substances with any of his goods, and did so for the purpose of defrauding his customers, then I would propose that he should be punished in the manner I suggest.

4670. Suppose he sold the goods as he bought them from the wholesale dealer, and they were found to be adulterated?—Then he should be called upon to give up the name of the party from whom he made his purchase; it would be desirable that the adulteration should be brought home to the actual perpetrator. I think a distinction must be drawn between a person guilty of adulteration and a person selling adulterated articles without any guilty knowledge.

4671. Viscount *Ebrington*.] On the same principle that the law makes a distinction between innocent and guilty possession of stolen goods?—Exactly.

4672. Mr. *Moffatt*.] You would not punish the vendor provided he proved that he received the goods in that state from the party of whom he bought them?—Inasmuch as it would in many cases be exceedingly difficult to bring home the offence to the party actually practising the adulteration, it might be necessary to reserve a certain punishment for the vendors of adulterated articles; that is a matter which would have to be well considered.

4673. Viscount *Ebrington*.] The analogy of uttering base coin would not be very inapplicable in that case?—That is a very good illustration.

4674. Mr. *Wise*.] In the existing state of society you think that *caveat emptor* should be changed into *caveat venditor*?—Yes.

4675. Mr. *Moffatt*.] If the analogy of base coin is so strictly applicable, and going on all fours with the adulteration of sugar and wine, and so on, surely the public can protect themselves from the one as well as from the other; I apprehend you do not often take bad shillings?—I am afraid I have been imposed upon more than once in that way.

4676. When you have been once imposed upon by a bad shilling, did not you thenceforth look very sharply after bad shillings?—However sharply I may look after bad shillings, I am afraid I shall not always be able to protect myself, and I shall suffer again from the consequence of receiving bad money.

4677. Viscount *Ebrington*.] The Legislature has not considered it enough to leave the question of bad shillings to be decided between the receiver and the giver?—Certainly not; very heavy penalties are imposed upon the fabricators of base coins, as well as on those who circulate them.

4678. Mr. *Moffatt*.] Are the Committee to understand that you would recommend some stringent measures to be adopted with regard to those adulterations affecting public health, but not with regard to those of a fraudulent character?—I think that some stringent measures should be adopted with regard to both classes of adulteration. I should be disposed to be more severe upon those adulterations which not only damage the pocket, but injure our health.

4679. Have you looked at the practicability of adopting any measures without committing great injustice, in many cases, where goods may be sold, the vendor believing

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believing them to be genuine, although they are not purely the substance professed to be sold?—I think measures may be so framed to avoid doing injustice to any party. (*The Witness withdrew.*)

The *Chairman* stated that he had received a letter from Dr. Normandy, with respect to the evidence given by Mr. Robertson. The Committee thought, for the purpose of justifying Dr. Normandy, it was only necessary to read two paragraphs of the letter.

[*The same were read, as follows :*]

"I told him (Mr. Robertson) then that those samples would be no proof of Messrs. Gilbertson & Company's usual practice as bakers, but that I would call in a few days at his shop and choose a loaf there myself, and I did so.

"I never denied or affirmed that I analysed the samples which Mr. Robertson had brought me, for or on account of any unsatisfactory results which the analysis of such samples would have yielded. I kept no memorandum of it, but from the certificate which it appears Mr. Gilbertson holds, it seems that I analysed them, and that this analysis agreeing with that of my own sample, I gave him the certificate in question."

APPENDIX.

AN ACCOUNT of the Importations of MILLET SEED, in each of the last Ten Years, distinguishing the COUNTRIES from which Imported.

COUNTRIES from which Imported.	Quantities of Millet Seed Imported into the United Kingdom.									
	1846.	1847.	1848.	1849.	1850.	1851.	1852.	1853.	1854.	1855.
	Cwts.	*Cwts.*	*Cwts.*	*Cwts.*	*Cwts.*	*Cwts.*	*Cwts.*	*Cwts.*	*Cwts.*	*Cwts.*
Russia, Ports within the Black Sea	6,322	-	-	-	-	-	-	20	—	—
France	9	891	463	1,288	104	40	174	23	29	180
Portugal	-	28	87	-	179	200	—	—	—	—
Naples and Sicily	-	-	-	-	-	-	-	5,000	—	—
Malta	-	-	2,242	-	4,101	3,645	—	—	—	—
Turkey Proper	13	6,318	376	1,049	1,167	50,546	1,986	24,450	3,675	22,685
Wallachia and Moldavia	-	-	-	-	-	-	8,143	5,109	—	—
Syria and Palestine	-	-	-	9,107	86,541	51,495	40,708	117,028	12,738	24,191
Egypt	-	-	-	-	1	-	-	6,521	—	—
New Granada	-	1,689	—	—	—	—	—	—	—	—
Other Parts	79	89	158	243	95	119	35	8	28	37
TOTAL	6,423	9,015	3,326	11,687	92,188	106,045	51,046	158,159	16,470	47,093

AN ACCOUNT of the Importations of MILLET SEED in each of the last Ten Years, distinguishing the PORTS into which Imported.

PORTS into which Imported.	Quantities of Millet Seed Imported into the United Kingdom.									
	1846.	1847.	1848.	1849.	1850.	1851.	1852.	1853.	1854.	1855.
	Cwts.	*Cwts.*	*Cwts.*	*Cwts.*	*Cwts.*	*Cwts.*	*Cwts.*	*Cwts.*	*Cwts.*	*Cwts.*
London	4,522	878	267	1,113	3,464	5,830	178	23,230	55	314
Bristol	-	-	-	-	4,627	3,645	-	9,474	—	—
Gloucester	-	-	2,242	3	-	9,246	8,143	15,589	3,675	—
Liverpool	1	7,539	80	10,559	11,632	20,872	-	10,066	2	4,734
Hull	8	2	-	-	-	9,262	-	45,557	-	2,591
Dublin	-	3	-	8	25,525	9,310	—	—	—	—
Waterford	1,880	-	-	-	-	10,923	-	-	-	720
Limerick	-	-	-	-	44,344	35,522	42,694	54,241	12,738	34,654
Westport	-	-	-	-	2,594	—	—	—	—	—
Sligo	-	-	-	-	-	1,234	—	—	—	—
Belfast	-	483	343	-	-	-	-	1	—	—
Cork	-	-	-	-	-	-	-	-	-	4,080
Other Ports collectively	12	110	394	4	2	201	31	1	—	—
TOTAL	6,423	9,015	3,326	11,687	92,188	106,045	51,046	158,159	16,470	47,093

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Baiss, James. (Analysis of his Evidence.)—Drug merchant and importer, supplying drugs and chemicals to the trade, 956——Denies *in toto*, on behalf of his own firm, and on the authority of the principal drug-grinders, that, when drugs are sent to be ground, the loss in the process of grinding is made up by the admixture of some other powders; this practice has been discontinued for many years, 957–959. 962–968. 977 *et seq.*——Advantage of a system of inspection for preventing the importation of impure drugs, 960, 961. 969–973——In sending goods to the drug-grinder, the practice of witness's firm is to receive them back minus the loss in grinding; loss incurred upon several articles, 962–968.

Advantage probably to the public, if the retail as well as the wholesale druggists were

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Baiss, James. (Analysis of his Evidence)—*continued.*

subject to a system of inspection, 969–976. 989——(*Mr. Baiss* and *Mr. Bastick.*) Contradictory statements as to druggists keeping a book of recipes for manufacturing spurious articles, 971. 993–996——(*Mr. Baiss.*) Some dishonest firms may sell impure drugs to the retail chemists, but the practice of the trade is to sell the pure articles, 977 *et seq.*——Power of the College of Physicians to visit and inspect chemists' shops, adverted to, 989–992.

It is not the practice of witness's firm to keep or manufacture what are termed compound powders, and he believes the sale of such powders by wholesale druggists is of rare occurrence, 997–1018——Belief that both retail and wholesale dealers abstain generally from adulteration, 1024. 1031–1040——Facility for detecting adulteration in white precipitate, 1026, 1027——Opportunities of the dishonest in all trades for practising adulteration, 1027–1030——Articles bought by witness's firm for manufacturing purposes are duly tested, and are generally found to be pure, 1037–1039.

Bark. Inferior article sent to St. Mary's Hospital, Paddington, as a sample of cinchona bark, *Blyth* 667–671——Skill required to judge of the purity of bark, *Bell* 2332, 2333. 2340——Loss of bulk in the process of grinding, *Atkinson* 2826——Different qualities, naturally, of bark, *ib.* 2901.

Base Coin. The legislative check upon uttering base coin is a fair analogy in regard to a check upon adulteration, *Hassall* 4673–4677.

Bastick, William. (Analysis of his Evidence).—Analytical and consulting chemist; has had a large experience in the examination of drugs, 837–840——Extensive adulteration of drugs both before and after importation, 841–843——General adulteration of scammony with chalk and flour, 843, 844——Exceptional instances of opium being purposely adulterated, 845, 846——Sundry articles, more especially drugs, in which witness has detected fraudulent adulteration; particulars hereon, 847 *et seq.*——Evidence relative to the extensive adulteration practised in the case of compound powders, 863–874——Instance of substitution by the retail dealer of bisulphate of soda for tartaric acid, 875, 876——Sale by many chemists of adulterated articles unwittingly, 877–880.

Evidence in favour of the appointment of public inspectors for the detection and punishment of adulteration, 881–886. 912–916. 918. 938–940——Efficacious measures adopted in Germany for preventing adulteration, 882, 883. 886——Constant adulteration of bread with alum to an extent injurious to health, 887–891——Adulteration of cayenne pepper with red lead, 892–894——Printed recipe produced for making an imitation of good port wine; explanation thereon, 895–904.

Witness has found adulteration in anchovy sauce, 905——He has detected about twenty-five per cent. of chicory in what was sold as pure coffee, 905, 906. 909——Opinion that coffee is improved by an admixture of chicory, 907, 908——Concurrence in the evidence of Dr. Hassall and Dr. Normanby, as regards the extent of the practice of adulteration, 913–916——Belief as to annatto being fraudulently adulterated, 919–921.

Practice of druggists to have books of recipes for making imitations of pure drugs, 922–931——Reference to a book of recipes termed "Gray's Supplement to the Pharmacopœia," which is easily obtainable, 925–931——Considerable benefit resulting from the Pharmaceutical Society, 932, 933——Slight advantage resulting from the power of the College of Physicians to visit chemists' shops in the city of London, 234–941——Quality and price of the article sold as port wine, though only an imitation, 942–946——Fraud upon the public to sell as real port wine the mixture alluded to, or to sell any article under a false name, 944–955.

BEER:

1. *Generally as to the Adulteration by the Publican.*
2. *Adulteration with Cocculus Indicus.*
3. *Adulteration with Sugar.*
4. *Doubt as to Adulteration with Strychnia.*
5. *Absence of Adulteration by the Brewer.*
6. *Means of detecting Adulteration.*

1. *Generally as to the Adulteration by the Publican:*

Considerable extent to which London ale and porter are adulterated by the retail dealers, the substances used being quassia, gentian, cocculus indicus, &c., *Taylor* 50–67——Besides hops, other bitter substances are used in ales, *ib.* 50. 61, 62——Greater purity of bottled beer than of draught beer, *ib.* 55, 56——Quassia is not deleterious, *ib.* 59——Belief as to porter being sometimes adulterated with a mineral substance, *Quekett* 420–424

Witness has examined a great many samples of beer and has never detected cocculus indicus, quassia, or gentian; these however, cannot be detected chemically, *Thompson* 544–547. 549. 566–590——Belief that ales are adulterated with some bitter substances, though the same cannot be proved by chemical means, *ib.* 545–548, 549, 570. 572——

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BEER—continued.

1. *Generally as to the Adulteration by the Publican*—continued.

The practice of adulteration would not in the end be beneficial to the publican, *Thompson* 581, 582-602, 603——Equally good and wholesome character of the retail as of the wholesale beer, *ib.* 583——Ample profit of the publican without resorting to adulteration, *ib.* 591-599.

Witness is convinced that narcotics are used by the publicans for the sake of producing intoxicating effects; he cannot, however, speak directly as to such narcotics, whether cocculus indicus or tobacco juice, &c., *Blyth* 764-775; *Challice* 1429-1445——Instance of a publican, on entering business being offered a receipt for making three barrels of beer out of two, *Rodgers* 3337——Adulteration of beer mainly takes place in the cellar of the publican, *Wickham* 3372. 3375——Publicans who do not adulterate form exceptions to the general rule, *ib.* 3376.

Description of the usual adulteration by publicans, *Wickham* 3377-3382. 3391————The adulteration forms the main profit, *ib.* 3383-3388. 3424——Use of quassia and gentian for the sake of imparting a bitter flavour, *ib.* 3408-3412——Use of copperas and roach alum in order to raise a froth, *ib.* 3425-3428.

Restriction advisable as to the component parts of beer, *Postgate* 4329-4339——Grounds for the statement that stout, as sold by publicans, is considerably adulterated with water, *Hassall* 4544-4555——Adulteration also of porter, *ib.* 4544-4548——Authority of others for witness's statement, that porter and ale are adulterated with grains of paradise, capsicum, and wormwood, *ib.* 4615-4619.

Examination of the several ingredients employed by the publican, *Rep. p.* iv.

The Committee consider that intoxication is in many cases the result of the admixture of narcotics or other noxious substances, *Rep. p.* iv.

2. *Adulteration with Cocculus Indicus:*

Belief as to the introduction of cocculus indicus, though witness has not chemically detected it, *Taylor* 50-53. 67; *Blyth* 764-766; *Challice* 1429—1445——Intoxicating and injurious effects produced by cocculus indicus, *Taylor* 51-54; *Blyth* 767-774——Circumstance of cocculus indicus being largely imported into this country, for what purposes witness cannot say, *Taylor* 63-70; *Thompson* 550-552. 600, 601——Rapid and stupifying effects of cocculus indicus contrasted with the stimulating effect of alcohol; inference that there can be no motive for putting it into beer, *Thompson* 552-565.

Witness has ground large quantities of cocculus indicus which he believes ultimately went into beer, *Gay* 1669-1672——Belief that it is chiefly used for adulterating beer, *Bell* 2359-2363——————Peculiar effects of cocculus indicus upon the human system, *Rogers* 3322—— The importation of cocculus indicus is for no use, so far as witness is aware except admixture with beer; its importation should be prohibited, *ib.* 3325-3329., 3347-3351. 3357, 3358——Facility for obtaining cocculus indicus; it is specially prepared by some druggists for publicans and small brewers, and is sold under the name of "multum" and "hard mixture," *ib.* 3330-3337. 3352-3356.

Grounds for the belief that cocculus indicus is not used either by brewers or publicans in London, *Wickham* 3389-3406. 3413-3420——Use of cocculus indicus by small brewers in Derbyshire, *ib.* 3407. 3421, 3422.

3. *Adulteration with Sugar:*

Belief that the only adulteration by the publican is the addition of some coarse sugar for the purpose of fermentation, *Thompson* 540-543——Profit derived through the fermentation produced by the sugar, *ib.* 543. 593, 594——Probable use of sugar in the manufacture of beer adverted to as some explanation of the less use of malt and hops, *ib.* 584-588.

4. *Doubt as to Adulteration with Strychnia:*

Belief that strychnia is not put into beer, *Taylor* 57, 58——Witness never found strychnia or morphia in bitter ales, *Thompson* 574, 575.

5. *Absence of Adulteration by the Brewer:*

Evidence as to the purity of brewers' beer, *Thompson* 540; *Challice* 1435, 1436——Adulteration is not practised by any large brewers in London, though it may be resorted to by some small brewers, *Wickham* 3372-3375. 3393, 3394.

6. *Means of detecting Adulteration:*

Mode of ascertaining whether beer is diluted; standard of strength taken for calculation, *Blyth* 776-786——Witness has recently undertaken some analyses, and feels certain that he will be able to detect cocculus indicus, *Rodgers* 3318-3324. 3330. 3339——Nature of test employed by witness for detecting cocculus indicus, *ib.* 3338-3341.

Correction of the evidence of Mr. Phillips before the Committee in 1855 (Q. 2483), as to witness having examined beer by means of acetate of lead, *Hassall* 4400——Con-

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Beer—continued.

currence in the statement of Mr. Rodgers, that cocculus indicus in beer may be detected, though the test is a laborious one, *Hassall* 4420–4423. 4560.

Belgium. Severe system of imprisonment and fine adopted in Belgium for the sale or exposure to sale of adulterated food or drink, *Rep. p.* v, vi.

Bell, Jacob (*Editor of the Pharmaceutical Journal*). (Analysis of his Evidence.)—Wholesale and retail chemist and druggist, 2313——Has for many years paid considerable attention to the question of adulteration of drugs, 2314-2316——Establishment, in 1841, of the Pharmaceutical Society, for the better education of chemists as a check upon adulteration and other abuses, 2315, 2316. 2318——Remarks made by witness at a meeting of the society in December 1841, relative to the existence of adulteration in drugs, and the means for remedying the same, 2316, 2317——Considerable improvement since the establishment, and, through the operation of the society, in the quality of drugs and chemicals, as sold to the public, 2317-2321.

Scammony was never pure twenty years ago, 2321——Cessation of adulteration in any drug if the demand cease for the impure article, 2321-2326——Extent of the adulteration of scammony at the present time, 2321–2325——Cessation of adulteration of senna through measures adopted by the Pharmaceutical Society, 2326——There are three distinct classes of impurity in medicines, two of which, arising either from fraudulent admixture or from articles spoiled or deteriorated in keeping, should carry penalties with them, 2327–2331——Impurity arising from unskilful preparation should not be punishable, 2327, 2328.

Facility for procuring genuine opium by properly paying for it, 2332——Skill required to judge of the purity of opium, 2332——Skill also required to judge of the purity of bark, 2332, 2333. 2340 —— Discontinuance for several years past of the extensive adulterations which used to be practised by drug-grinders, 2334, 2335——Reference to powdered gentian as chiefly or entirely used for horses and cattle, 2335 ——Relative qualities of different kinds of rhubarb adverted to, 2336–2339.

Undue facilities for persons to become chemists, no certificate as to qualification being required, 2342-2346. 2348——Salutary check in France and Germany upon persons setting up as chemists, 2347, 2348——Failure of steps taken by witness and others for providing that every chemist should be properly qualified, 2348-2366——As regards the sale of poisons, witness differs from Dr. Neligan's suggestions as to differently-shaped bottles, &c., and considers that the best safeguard is that of marking the word "poison" upon everything which is poisonous, 2349–2357——Belief as to cocculus indicus being chiefly used for adulterating beer, 2359–2363.

Reference to, and summary of, a circular or memorial addressed by the president of the College of Pharmacy of New York to the House of Representatives in 1847, praying for the introduction of a law to prevent the importation of drugs unfit for use, 2364–2366 ——Advocacy by witness in 1847, and at the present time, of a system of inspection of imported drugs on arrival in this country, 2366-2383. 2395——Principal provisions of the Act passed by the American Congress for preventing the importation of impure drugs, 2367. 2369. 2378–2380——Proof of the beneficial operation of the Act, 2367–2370.

Advantageous co-operation of pharmaceutists in America for checking adulteration, 2368. 2372–2375 ——Considerable adulteration of drugs in America, the only legislative inspection being when in bond, 2371. 2380–2382 ——Advantage if chemists in this country were all licensed, 2376——Difficulty of fixing on a remedy against the sale of impure drugs, 2377——Probable improvement if the power of inspection possessed by the College of Physicians were more fully exercised, 2384——Improvement to be expected from the co-operation of the better educated and more respectable chemists, 2384, 2385. 2406, 2407 ——Main importance of exposure as a check on adulteration, 2385, 2386.

Principles by which the inspection of drugs in bond should be guided; all damaged or inferior goods should not be rejected; 2387–2395——Demand for cheap medicines adverted to; it is a primary cause of adulteration; 2396, 2397——Great demand for secret or quack medicines, which do an immense deal of mischief, and should be rendered illegal, as in France, 2396–2404——Disapproval of the tax levied on quack medicines, as tending to encourage their sale, 2400–2402.

Disuse into which the inspection by the Apothecaries' Company has fallen, 2405—— The Pharmaceutical Society will gladly assist the object for which the present Committee has been appointed, 2406, 2407——Doubt as to any good result being produced by the publicity of the Committee, 2408, 2409——Necessity of legislative interference for the prevention of adulteration generally, the public being evidently unable to protect themselves, 2410–2416——Some of the statements made to the Committee have been exaggerated, and have unduly frightened the public mind, 2411.

Bingley, Dr. Charles William. (Analysis of his Evidence.)—Professor of Chemistry to the Medical Institution at Sheffield, 4092——Instances of adulteration in matters of agricultural produce, 4094, 4095——Instances of adulteration in drugs, 4096——Belief that there

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Bingley, Dr. Charles William. (Analysis of his Evidence)—*continued.*

there is less adulteration in drugs than was formerly the case, and that small dealers are the ones who chiefly practise it, 4097-4101. 4165-4169. 4172——Instances of butter being adulterated with water, with inferior kinds of butter, and with lard, 4101-4105——Adulteration in black and white pepper, 4106, 4107.

Case of chicory said to be adulterated with peat dust, 4108-4113——Instances of extensive and injurious adulteration of lime juice as sold in Liverpool, 4114-4125. 4131-4136——Small demand for lime-juice in Sheffield; it is probably adulterated there also; 4126-4130——Cases of adulteration of flour, as examined by witness; use of foreign meal, gypsum, and bone-dust; 4137-4141——Circumstance in one case of there having been no conviction (though the adulteration was proved), in consequence of the information not having been made within forty-eight hours after the seizure; clause of the Act hereon; 4141-4152. 4201-4204.

Particulars relative to the case of seizure of flour belonging to Mr. Crosby of Rotherham; possibility of the flour having been tampered with after seizure; 4153-4159——4194-4197——Impression that there is not any large amount of injurious adulteration at Sheffield, 4160-4164. 4170-4172——Statement relative to some drugs supplied at extremely low prices to the Sheffield poor-law union, which drugs were found to be extensively adulterated, 4172-4193. 4214.

Expediency of some arrangement for ensuring that fraud is not practised by the person selecting the samples for analysis, 4194-4197——With regard to the Act 6 & 7 Will. 4, c. 37, it is not generally known that a clause therein provides for the marking of all loaves of bread with the letter M, if the flour be mixed with other articles; importance of this clause; 4198-4200——Incompetency of inspectors, under the Nuisances Removal Act, to inspect flour or wheat, 4205-4208——When seizures of flour are made the space of a week should be allowed for laying informations, 4209-4211.

Blyth, Lindsey. (Analysis of his Evidence.)—Analytical Chemist and Lecturer on Natural Philosophy at St. Mary's Hospital, Paddington, 659, 660——Examines the drugs supplied to the hospital by the wholesale druggists, 661-663——Supply at first to the hospital of samples of drugs, many of which were naturally inferior in quality, 664-666——Inferior article sent to the hospital as a sample of cinchona bark, 667-671——Considerable adulteration in the case of four samples of lime-juice examined by witness, 671-674——Material effect of adulteration upon the value of lime-juice, &c., medical men generally not allowing for adulteration, 673-679.

Extensive and injurious adulteration in the case of three out of five samples of sweet spirits of nitre tested by witness for the hospital, 680-684——Very considerable adulteration in several samples of solution of ammonia, 684-688——The vendors, in sending impure samples of drugs, were not aware that they would undergo examination, 689——The desire of greater gain, and not the effect of competition, or the ignorance of the manufacturers, is one of the chief causes of the adulteration of drugs, 690-694. 746-749.

Importance of purity in the article chloroform, 695, 696——Impurity of every sample of chloroform sent at first to St. Mary's Hospital, 697-700——Means for testing chloroform, and for distinguishing whether it is adulterated or deteriorated through imperfect preparation, 699——A sample of hydro-chloric acid contained four or five grains of arsenious acid, 700——Naturally inferior quality of the great mass of opium samples; adulteration generally taking place abroad, 700-707.

Great improvement in the drugs supplied to the hospital when it became known that there was a chemical analysis; some of the vendors sending adulterated samples no longer competed for the supply, 708-711——Good quality of the bread supplied to the hospital; admixture of potatoes without detriment to health, 712. 715-719——Dilution of samples of milk with water; one sample only contained chalk, 712-714——Large cultivation of rhubarb in this country on the recommendation, probably of Dr. Pereira, that it might be substituted for Turkey rhubarb, 720-728.

Witness has examined drugs in Paris, but never detected adulteration, 729-731. 733-735——Advantage of the superior education of the French pharmaceutists, 732——Efficacious system of public examination of drugs in France; punishments in the event of adulteration, 732. 736. 756-759. 827, 828——Power and practice of the College of Physicians in regard to visiting chemists' shops in the City of London, 737-739.

Approval of the appointment of a central Board for the inspection of drugs, food, &c., and for the infliction of penalties for fradulent and injurious adulteration, 740-742. 801. 810-814. 828——Importance of checking the importation of impure drugs, 743-745——In the majority of cases the impurity is accidental rather than fraudulent, 747, 748——In France every chemist grinds his own drugs, 750-755——Competency of students obtaining degrees from the Pharmaceutical Society to detect impurities in drugs, 760-763.

As regards beer, witness has examined some hundreds of samples, and has found less adulteration than has generally been stated; instances, however, of considerable dilution and of supposed adulteration with cocculus indicus, 764-775——Means of ascertaining

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Blyth, Lindsey. (Analysis of his Evidence)—*continued.*

whether beer is diluted; standard of strength taken for calculation, 776-786——Purity of port and sherry wines as examined by witness, 787-789——Adulteration of Cayenne pepper, as imported, with red lead; instance of illness produced thereby, 790-800——Purity of coffee bought by witness as genuine, 804-807.

Facility for testing bread by means of the microscope, 815, 816——Decomposition of alum when used in bread, 817-821. 823——Effect of alum in checking the decomposition of bad flour, 824——Expediency of some check upon the sale of bad bread, 825-828——The French bread is lighter than the English; probable reason, 829-835——Witness has never detected plaster of Paris in bread, 836.

Board of Health. See *General Board of Health.*

Board of Inland Revenue. See *Inland Revenue Department.*

Brandy. Frequent substitution of British for foreign brandy, to the great prejudice of health, *Challice* 1530-1535.

BREAD:

I. *As to Adulteration with Alum:*

1. Extent of the Adulteration.
2. Form in which the Alum is found.
3. How far Injurious to Health.
4. Objects of the Use of Alum; how far objectionable independently of the score of Health.
5. Means of Detection.
6. Case of Mr. Clapperton.

II. *Adulteration with other Substances than Alum.*

III. *Remedial Measures considered.*

IV. *France.*

I. *As to Adulteration with Alum:*

1. Extent of the Adulteration;

Witness has examined several samples of what may be termed best bread, and has not detected alum, save in one instance, *Taylor* 35, 36——Within the last eight months witness has examined samples of bread procured chiefly by working people at 78 different shops in London, *Thompson* 438-440. 478——The constituents of alum were found in all these samples, but alum, as such, did not exist, *ib.* 440-445.

General practice of bakers in the metropolis to use alum in bread, *Bastick* 887-891; *Chalice* 1400-1408. 1416, 1417——Large quantity of alum in Leeds bread, as analysed by Mr. C. L. Dresser, *Emerson* 1132, 1133——Use of alum in greater quantities as the flour is inferior, *Carpenter* 2429. 2440, 2441.

Witness has recently examined a considerable number of samples, comprising the description used in workhouses, up to that used at Buckingham Palace, and has in every case detected alum, *Rodgers* 3257. 3279, 3280——Impression that the quantity of alum used generally varies from eight ounces to two pounds in a batch of 116 loaves, *ib.* 3257. 3294-3296——The cheaper the bread the larger the amount of alum, *ib.* 3177——Whatever the price of wheat, there is the same use of alum, *ib.* 3281.

In order to disprove the evidence of Mr. Thompson as to the invariable use of alum by London bakers, witness produces letters from forty-three bakers, denying that they use it; how these letters were obtained, *Callard* 3528-3535. 3542, 3543. 3561-3571——Has not himself used alum in bread for more than ten years, *ib.* 3530——Considers, however, that it is used by the majority of London bakers, *ib.* 3535, 3536. 3599.

Witness recently found thirteen grains of alum in half a pound of bread, *Postgate* 4228.

2. Form in which the Alum is found:

Doubt as to any one having found in bread alum "in crystals the size of a large pea," *Taylor* 47, 48——Erroneous impression produced by witnesses who have assumed that alum remains in bread after the process of baking, the fact being, that only the constituents then exist; error of Liebig hereon, *Thompson* 440-445. 447-455. 470-477. 491——Decomposition of alum when used in bread, *Blyth* 817-821. 823——Crystals of alum could not exist in bread, on account of the heat in the process of baking, *Neligan* 1832-1834.

Instance of witness having found alum crystallized in bread, *Carpenter* 2420. 2429——The heat in baking would not prevent powdered alum from appearing in a crystalline form, *Rodgers* 3311, 3312.

3. How

BREAD—continued.

I. *As to Adulteration with Alum*—continued.

3. How far Injurious to Health:

Injurious property of alum when introduced day by day into the human system, *Taylor* 37; *Wakley* 2285. 2299-2301; *Callard* 3557——Belief that the constituent parts of alum as found in bread are not injurious to health, the injurious properties being destroyed by the heat, *Thompson* 456-458. 491. 516. 522-524. 528——The use of alum, unless much more largely than at present, does not call for legislative interference, *ib.* 492-510. 529-538——Constant adulteration of bread with alum, to an extent injurious to health, *Bastick* 887-891; *Challice* 1400-1408. 1416, 1417.

Denial that the astringent or injurious properties of alum are destroyed by the heat to which it is subjected, *Challice* 1404-1407. 1418-1422——Evidence to the effect that alum as used in bread in London or the provinces produces costiveness, and is decidedly injurious to health, *Carpenter* 2420-2441——Though used in very small quantities, alum is decidedly injurious to health, *Rodgers* 3258-3264. 3273. 3286. 3289. 3309——Alum in bread is exceedingly injurious; proof of this, *Postgate* 4228-4231——Authority of Baron Leibig adverted to, as showing the injurious property of alum in bread, *Hassall* 4389.

4. Objects of the use of Alum; how far objectionable, independently of the score of Health:

Respects in which the admixture of alum is advantageous, *Thompson* 459-462. 500. 502-504. 525-527——The use of alum expressly for the purpose of improving the appearance of inferior flour so that it may be sold as good flour, is not considered unjustifiable by witness, *ib.* 462-464. 499-501. 506-510——Belief that it is quite notorious to the public that alum is always used in bread, and that notice by bakers of the fact would not diminish their trade, *ib.* 511-521.

Effect of alum in checking the decomposition of bad flour, *Blyth* 824——Advantage of the present inquiry in disabusing the public mind in regard to the preference for white bread, *Farrant* 1228, 1229. 1292, 1293. 1301. 1311——Alum improves the appearance of the bread, and saves trouble in the manufacture, *Challice* 1409-1412——Preference of the public for white bread, though generally most adulterated with alum, *Carpenter* 2447-2450.

The main objects in using alum are to enable bakers to use very inferior kinds of flour, and to cause loaves when baked in batch to separate nicely, *Rodgers* 3264, 3265. 3301-3306. 3315——The only advantage of alum is that it prevents bread from turning mouldy, *ib.* 3285-3288——Importance of alum as improving the colour, *Brown* 3458. 3473-3476——Prejudice to honest bakers by the use of alum by the trade, *Callard* 3556——Objections to alum in bread, independently of the question of its being injurious, *Hassall* 4390.

5. Means of Detection:

The maceration of bread in water does not leave any taste of alum in the water, *Thompson* 465, 466. 469——Fallacious evidence given by Mr. Postgate before the Committee in 1855 (Q. 2123), as to the means of detecting alum in bread; illustration in proof of this statement, *ib.* 466-468——Erroneous evidence also of Dr. Normandy (Q. 568), as to the detection of alum, *ib.* 468. 470-477——Doubt as to bread with alum in it absorbing more water than bread without alum, *ib.* 485-490.

Explanation of means by which alum may be detected, *Challice* 1413. 1423, 1424——Precautions necessary in the detection, *Rodgers* 3257——The means of detection are not so simple that the public can adopt them; such means explained, *ib.* 3290-3293. 3297-3300. 3316, 3317.

6. Case of Mr. Clapperton:

Grounds upon which witness (in business till lately as a baker) complains of injustice having been done to him by a statement in the "Lancet," in 1851, that his bread was adulterated with alum, *Clapperton* 3634 *et seq.*——Refusal of Mr. Wakley to supply witness with a portion of the bread said to be adulterated; this prevented witness from undertaking legal proceedings, *ib.* 3638, 3639. 3648-3650. 3652. 3655——Intended exoneration of witness subsequently through Dr. Hassall, *ib.* 3638. 3665-3667——Testimony borne by Doctors Bachoffner and Pepper, of the Polytechnic Institution, to the purity of the flour of which the bread was made, *ib.* 3638-3641——In consequence of the publication in the "Lancet," witness's business was completely ruined, and he was compelled to retire from the trade, *ib.* 3644-3646. 3651. 3654. 3656, 3657. 3667——Witness never used alum or any other ingredient, except potatoes, for adulteration, *ib.* 3658-3660——Possibility of flour, as supplied to witness, already containing alum, *ib.* 36603664.

Explanatory statement relative to the evidence of Mr. Clapperton, *Hassall* 4400-4413——Accuracy of witness's analysis of the samples submitted to him, *ib.* 4401. 4409——Mr. Clapperton continued in business four or five years after the publication in the "Lancet," *ib.* 4401. 4405, 4406——No portion of the sample of flour analysed by wit-

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BREAD—continued.

I. *As to Adulteration with Alum*—6. Case of Mr. Clapperton—*continued.*

ness was submitted to other analysis, and found to be free from alum, *Hassall* 4407-4411——Reference to the statement that witness refused to return Mr. Clapperton any portion of the bread analysed, *ib.* 4412, 4813.

II. *Adulteration with other Substances than Alum:*

Though witness has not found alum, save in one instance, he has found phosphate and carbonate of lime, *Taylor* 35, 36. 42-44——The baking powders, as used in what is called digestive bread, are not generally injurious to health, *ib.* 38-40——By microscopic examination, witness has found potato starch and bean starch in bread, but cannot detect alum by such examination, *ib.* 411-416——Greater price per lb. of flour than of bread; explanation that $3\frac{1}{2}$ lbs. of flour will make more than 4 lbs. of bread, on account of the absorption of water, *Thompson* 478-484.

Good quality of the bread supplied to St. Mary's Hospital, Paddington; admixture of potatoes without detriment to health, *Blyth* 712. 715-719——Facility for testing bread by means of the microscope, *ib.* 815, 816——Witness has never detected plaster of Paris, *ib.* 836——Advantage of substituting an increased quantity of salt for alum, *Challice* 1409, 1410. 1414, 1415——Rice is largely used in bread, in order to add to the weight by the absorption of water, *Challice* 1425-1428; *Rodgers* 3266, 3267.

Means for detecting the presence of an excess of water, *Calvert* 2105, 2106——Injurious effects produced by too much water, *ib.* 2094——The use of potato starch and rice flour enables the baker unduly to increase the weight by an over absorption of water, *ib.* 2095-2104. 2107.

Use of potatoes to increase the size and moisture of the bread and to give it softness, *Brown* 3440——Legitimate use of salt, *Callard* 3549-3554——Explanation for the purpose of disproving a statement in the "Times," that potatoes are used as an adulteration, *ib.* 3587-3593——Liebig recommended lime-water in lieu of alum as a means of improving the colour of bread; disapproval thereof, *Hassall* 4389, 4390. 4651, 4652——Statement as to bread being sometimes adulterated with sulphate of copper in this country, as well as in France and Germany, *ib.* 4470-4474.

III. *Remedial Measures considered:*

Expediency of checking the sale of bad bread by punishing all adulterations thereof, which are injurious to health, *Blyth* 825-828——Inoperativeness of the Act which prohibits alum, &c. in bread, but leaves the task of detection and prosecution to the public, *Carpenter* 2442-2446; *Rodgers* 3268-3271. 3275, 3276; *Postgate* 4295-4297. 4344, 4345——Inexpediency of compelling the poor man to eat pure and dear bread when a mixed article is cheaper and more wholesome, *Brown* 3452. 3497, 3498——Importance, in interdicting the use of alum or other ingredients, that all improvements on the present mode of making bread be not at the same time checked, *Callard* 3573-3580——Possible improvement by mixing a small proportion of rice with new flour, flour made from new wheat not being now available for bread, *ib.* 3578-3587.

Willingness of respectable bakers to submit to a system of inspection, *Rodgers* 3310——Feeling expressed in forty-three letters from London bakers that the use of alum should be prohibited, *Callard* 3573. 3595, 3596——Strong objection of bakers to leave it to analytical chemists to decide whether there is alum in bread; instances of discrepancies and mistakes among chemists on this point, *ib.* 3594, 3596. 3599-3602——System of appeal from the conclusions of chemists which would be satisfactory to bakers hereon, *ib.* 3597-3599. 3603.

IV. *France:*

Advantage of the assize of bread in France, *Lewis* 358-361. 367——Similar constituents of alum found by witness in bread lately bought by him in Paris as in London bread, *Thompson* 516, 517. 522-524——Control exercised by the municipal authorities in Paris, *Blyth* 825-828——The French bread is lighter than the English; probable reason, *ib.* 829-853.

See also *Act* 3 *Geo.* 4, *c.* 106. *Act* 6 *&* 7 *Will.* 4, *c.* 37. *Flour.* *Leeds.* *Normandy, Dr.* *Rochdale,* I. *Unfermented Bread.*

Brewers. See *Beer,* 5.

Brown, Potts. (Analysis of his Evidence.)—Engaged extensively in trade as a miller, 3435, 3436—— Propriety of abolishing the restrictions which exist under the Act 6 & 7 Will. 4, c. 37, in regard to the manufacture of good flour, 3437——Better character of foreign than of English wheat, on account of the land producing a less quantity per acre, or being virgin soil, 3437. 3477-3496. 3507——Particulars as to the addition by witness of a small proportion of bean flour to wheat flour, in order to produce the qualities required by bakers in bread; increase in the strength of the flour and improvement in the quality by this admixture, 3437-3442. 3452 *et seq.*

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Brown, Potts. (Analysis of his Evidence)—*continued.*

Beans contain twenty-four per cent. of gluten, whereas wheat contains only ten per cent., 3437——In selling barley flour in Northamptonshire, witness improves it by an admixture of wheat, 3440. 3444-3452——Use of potatoes by bakers to increase the size and moisture of the bread, and to give it softness, 3440——Inexpediency of compelling the poor man to eat pure and dear bread, when a mixed article is cheaper and more wholesome, 3452. 3497, 3498——Peas and alum are the only ingredients which witness has understood to be used for improving the colour of flour, 3445, 3446. 3474, 3475.

Greater restrictions lately upon the use of alum and bean flour than was the case a short time since, 3456-3459. 3523-3526——Importance of alum as improving the colour, 3458. 3473-3476——Mixture occasionally by witness of rice with flour; belief that the bread is not rendered inferior or moister thereby, 3470-3472. 3499-3505——Inexpediency of interdicting the admixture of bean flour; such prohibition would injure the country millers, without benefiting the public, 3506-3522.

Burnt Sponge. Instances of adulteration in Somersetshire, in the year 1811, in the preparation called burnt sponge; this was all meant for the London market, *Wakley* 2204, 2205.

Butter. Butter is adulterated with foreign ingredients, but witness cannot say of what kind, *Mackenzie* 4015-4023—— Instances of butter being adulterated with water, with inferior kinds of butter, and with lard, *Bingley* 4101-4105——Adulteration of butter, as imported from Ostend, with flour and water, *Postgate* 4231-4237.

An excess of water in butter, one-third of the article for instance, should certainly be considered an adulteration, *Hassall* 4476-4481. 4487, 4488——Various quantities of water found by witness in butter, *ib.* 4482-4486——Question as to the expediency of preventing the importation of butter containing an excess of water; a system of drawback would be a better plan, *ib.* 4489-4497.

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Callard, Thomas Karr. (Analysis of his Evidence.)—Baker at St. John's Wood, 3527. 3531. In order to disprove the evidence of Mr. Lewis Thompson as to the invariable use of alum by London bakers, produces letters from forty-three bakers denying that they use it; how these letters were obtained, 3528-3535. 3542, 3543. 3561-3571——Has not himself used alum in bread for more than ten years, 3530——Considers, however, that it is used by the majority of London bakers, 3535, 3536. 3596.

Strong impression that the flour, as bought by witness and other bakers generally, does not contain alum, 3537-3548——Legitimate use of salt by bakers in bread, 3549-3554——Prejudice to honest bakers by the use of alum in the trade, 3556——Injury to health by the constant use of alum, 3557——The finest dressed wheat, but not the purest wheat, is the most unwholesome, 3558-3560——Feeling expressed in the forty-three letters referred to, that the use of alum should be prohibited, 3573. 3595, 3596.

Importance, in interdicting the use of alum or other ingredients, that all improvements on the present mode of making bread be not at the same time checked, 3573-3580——Possible improvement by mixing a small proportion of rice with new flour, flour made from new wheat not being now available for bread, 3578-3587——Fraud if millers use beans or rice to any large extent, 3581-3585.

Explanation, for the purpose of disproving a statement in the "Times," that potatoes are used as an adulteration of bread, 3587-3593——Strong objection of bakers to leave it to analytical chemists to decide whether there is alum in bread; instances of discrepancies and mistakes among chemists on this point, 3594-3596. 3599-3602——System of appeal from the conclusions of chemists, which would be satisfactory to bakers hereon, 3597-3599. 3603.

Calomel. Instances of adulteration in Somersetshire forty-five years ago, *Wakley* 2204, 2205——Witness has found in calomel an admixture of a very fine kind of pipeclay, *Bingley* 4096.

Calvert, Grace. (Analysis of his Evidence.)—Professor of chemistry at the Royal Institution in Manchester, 2076——Has had considerable experience in regard to the adulteration of food and drugs, 2077, 2078——Particulars relative to extensive adulterations detected by witness in flour, bread, milk, butter, &c., as supplied to poor law unions in Lancashire, &c., 2078 *et seq.* 2084, 2085. 2094——Defective state of the law in regard to the adulteration of wheat flour, 2080-2083. 2086, 2087.

Extensive deterioration of some wheat flour in Manchester by an admixture of rice or maize, 2081——Impossibility of workhouse authorities detecting the presence of adulteration from the appearance; an officer is wanted for the purpose, 2084. 2115-2119——Instances of rice flour sold as wheat flour at Uttoxeter; penalties inflicted on the millers, 2088. 2090, 2091——Reduction of the nutritive properties of wheat flour, by the admixture of rice flour, 2089. 2092, 2093——Injurious effects produced by too much water in bread, 2094——The use of potato starch and rice flour, enables the baker

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unduly to increase the weight of bread by an undue absorption of water, 2095-2104. 2107——Means for detecting the presence of an excess of water, 2105, 2106.

Oatmeal as supplied to unions, and generally, has been found invariably to consist of a large proportion of rice and maize, whereby its nutritive quality is much reduced, 2108-2110——Constant tendency of competition in price to lower the quality of articles, 2110, 2111——Expediency of correcting the present system of supplies to workhouses, the lowest tender being generally accepted without any proper inquiry into the quality of the articles, suggestions hereon, 2112-2119. 2127-2133.

Out of 289 analyses made by witness for workhouses, there were 138 instances of adulteration or bad quality, 2124——In some instances the workhouse contracts were accepted at prices which did not admit of a genuine supply, 2125-2128——Calculation showing a loss of 2,271 *l.* to a union on a supply of 14,629 *l.*; 2128-2133.

Extensive adulteration in the case of samples of drugs procured by witness from twelve shops in Manchester, 2134-2138——Importance to the public of a system of inspection for the detection and punishment of adulteration of drugs, 2138. 2150——Systems in Paris and the French provinces for the discovery of adulteration in drugs and food; beneficial operation of the penalties inflicted, 2139-2149.

Candles. Excellent quality and low price of candles manufactured with stearic acid, and sold incorrectly as sperm and wax, *Taylor* 197-200. 202-206.

Carpenter, William B., M. D. (Analysis of his Evidence.)—Examiner in physiology in the University of London, and professor of medical jurisprudence in University College, 2418——Bears testimony to the injurious effect of certain adulterations upon the public health, 2419 *et seq.*——In pickles and other things the adulteration is frequently practised in ignorance of its being injurious, 2420——Evidence to the effect that alum as used in bread in London or the provinces produces costiveness, and is decidedly injurious to health, 2420-2441——Instance of witness having found alum crystallised in bread, 2420-2429——Use of alum in greater quantities as the flour is inferior, 2429. 2440, 2441.

Inoperativeness of the Act which prohibits alum in bread, but leaves the task of detection to the public, 2442-2446——Recommended adoption of a system of Government inspection to apply not only to flour and bread, but all other articles of public consumption, 2444, 2445. 2452, 2453. 2474 *et seq.*——Preference of the public for white bread, though generally most adulterated with alum, 2447-2450.

Instance of the successful effect of the principle of publicity, 2454-2456——Discontinuance in two of the colonies, and in this country of Scoffern's process of sugar refining on account of its involving the use of acetate of lead, which was pronounced by witness and others to be injurious to health, 2454-2458.

Grounds upon which Dr. Alfred Taylor and witness recommended the adoption of the present distinction between the sale of pure coffee, and the sale of coffee mixed with chicory, 2459-2471——Advantage both as regards price and quality by an admixture of chicory, 2461. 2464-2469——Simple test for ascertaining the presence of chicory; this should be printed on each label, which contains pure coffee, 2462, 2463.

Injurious effect of the practice of adulteration on the public morality, 2472, 2473——Necessity of special education and qualification in the parties to conduct analyses of articles, 2475. 2492, 2493——All analyses should be conducted by a central board in London for whom articles should be procured throughout the country, thorugh means of the Inland Revenue department, 2474-2478. 2494-2499——Economy in employing the machinery of the Inland Revenue department, 2979.

Instances of inaccuracy in the analyses conducted by Dr. Hassall for the "Lancet," 2479. 2485-2491——Inadequacy of one person to make the number of analyses published weekly by Dr. Hassall, 2479-2484——Probability that several persons would have brought actions against the "Lancet," but for the expense, 2488-2491.

Minor regulations advisable, as in France, in regard to the use of colouring matters, 2500——The public should be protected by Government against all adulterations injurious to health, and against the sale of articles under a wrong name, 2501-2509——The poorer classes should have increased facilities for bringing offenders to justice, 2510-2512——Means for guarding against abuse in the purchase of samples for analysis, 2513-2516——Increase of adulteration of late years through the publicity given by publications on the subject several years ago, 2517, 2518——Prevalence of adulteration in the poorer neighbourhoods, 2519.

Cassia. See *Cinnamon.*

Cayenne Pepper. Adulteration of Cayenne pepper, as imported, with red lead; instance of illness produced thereby, *Blyth*, 790-800——Witness has detected red lead in Cayenne as sold to the public, *Bastick* 892-894——Cayenne may be adulterated by pickle manufacturers, but not by respectable druggists, *Drew* 2944-2948.

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Central Board. A Central Board of five or more persons to decide upon adulterations generally is far preferable to a system of local analysts, one analyst moreover being inadequate to the task, *Taylor* 213-226. 234. 238-240——The members of the proposed Board should have a fixed salary, *ib.* 237——Possibility of the public placing too much reliance on the certificate of the Board as to the purity of any article sold by a particular tradesman, *ib.* 241-246——Suggested formation of a central department to be attached to the General Board of Health, and to have powers similar in the main to those of the Conseil de Santé Publique in Paris, *Lewis* 368-376——Approval of the appointment of a central Board for the inspection of drugs, food, &c. and for the infliction of penalties for fraudulent and injurious adulterations, *Blyth* 740-742. 801. 810-814. 828.

There should be a central Board in London, with provincial Boards in large towns to whom meats, &c. might be sent for chemical analysis, *Richardson* 2182-2184. 2196—— In cases of difficulty articles might be sent from the country to the central Board in London, *Wakley* 2275-2277. 2292——All analysis should be conducted by a central Board, for whom articles should be procured throughout the country through the means of the Inland Revenue department, *Carpenter* 2474-2478. 2494-2499——Importance, in the first instance, of a central authority to issue regulations, *Postgate* 4238 *et seq.*; *Hassall*, 4439, 4440.

Objection to which a system of a central Board and local inspectors would be open, *Neligan* 1826-1828.

See also *Board of Health.* *Inland Revenue Department.*

Challice, John, M. D. (Analysis of his Evidence.)—Resides at Bermondsey, 1398, 1399 ——General practice of bakers in the metropolis to use alum in bread to an extent injurious to health, 1400-1408, 1416, 1417—— Denial that the astringent or injurious properties of alum are destroyed by the heat to which it is subjected, 1404-1407. 1418-1422——The main object in using alum is to improve the appearance of the bread, and to save trouble in the manufacture, 1409-1412——Advantage of substituting an increased quantity of salt for alum, 1409, 1410. 1414, 1415——Means by which alum in bread may be detected, 1413. 1423, 1424——Frequent use of rice in making bread, the quality of which is much deteriorated thereby, 1425-1428.

As regards beer, witness is convinced that narcotics are used by the publicans for the sake of producing an intoxicating effect; he cannot however speak directly as to such narcotics, whether cocculus indicus or tobacco juice, &c. 1429-1445——Belief as to the purity of brewers' beer, 1435, 1436——Evidence as to the constant sale of diseased and unhealthy meat to the poorer classes, 1446-1466——Illustration of the inadequacy of the present law for preventing the sale of bad meat, 1460-1464——The poor can protect themselves against the sale of bad fish, as they can easily detect it, 1467.

Liability, especially of the lower classes, to the evil of adulteration, 1468, 1469. 1547, 1548——General and extensive adulteration of mustard with flour and turmeric, so that as a medical appliance it is constantly quite ineffective, 1470-1472——Advantage of the mustard husks for medical purposes, 1472——Constant adulteration of arrowroot with potato starch, frequently to the extent of fifty per cent., whereby its value is greatly reduced, 1473-1481.

Different prices and qualities of milk, the difference being the result of using chalk and water for adulteration; instance of this in the case of milk supplied by contract to the Bermondsey Board of Guardians, in which there was a great sediment, most probably chalk, 1482 1497——Reluctance or inability of the poor to take steps against shopkeepers for adulteration, 1485. 1507-1510.

Compound mixture sold to the poor as port wine; injurious properties thereof; 1498-1501. 1505——Belief as to the manufacture of sherry out of brandy and water, 1502-1504.

Opportunity, under the Metropolis Management Bill, to empower vestries, through means of the inspectors of nuisances and sanitary officers, to detect adulteration, 1505, 1506. 1511-1513——There should be a fine on the first conviction for injurious adulteration, to be quadrupled on the second conviction, 1505——As regards the prevalence of adulteration, witness refers to the whole metropolis, and not merely to Bermondsey, 1513-1516.

Facility for detecting adulteration in port wine, 1517——Tea, generally speaking, is pretty good, 1518——Coffee is largely adulterated, not only with chicory, but sometimes with other vegetable roots, dried and ground up, 1519-1528——Substitution constantly of British for foreign brandy, to the prejudice of health, 1530-1535——Large adulteration, or rather substitution in the case of drugs, so that life is often endangered, 1536-1539——Pure drugs are sold by some chemists, and at Apothecaries' Hall, 1540-1542.

Necessity of some system of inspection of drugs, &c.; the power alone would be of great use; 1543-1565——Advantage of requiring every trade to be licensed, 1550—— There should be a check upon the importation of impure drugs, 1552-1562——Whatever

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Challice, John, M. D. (Analysis of his Evidence)—*continued.*

ever system be adopted, the Legislature should protect the public from all adulterations injurious to health, 1563-1567.

Chemical Analyses. See *Analysts.*

Chemists and Druggists. System of licensing of chemists in France, *Neligan* 1765-1767——Advantage if chemists in this country were all licensed, *Neligan* 1768, 1769; *Bell* 2376; *Postgate* 4351——A system of licence and inspection might also be desirable in the case of drug-grinders and wholesale druggists, *Neligan* 1769-1773——Great advantage if chemists and druggists were licensed; they would not object to it, *Wakley* 2306-2308.

Undue facilities for persons to become chemists, no certificate as to qualification being required, *Bell* 2342-2346. 2348; *Rep. p.* ix——Salutary check in France and Germany upon persons setting up as chemists, *Bell* 2347, 2348——Failure of steps taken by witness and others for providing that every chemist in this country should be properly qualified, *ib.* 2348. 2366——Improvements to be expected from the co-operation of the better educated and more respectable chemists, *ib.* 2384, 2385. 2406, 2407——Willingness of druggists to submit to a system of inspection, *Atkinson* 2863.

Expediency of a system of examination of chemists, *Richter* 3779. 3787-3789——Importance of a much higher state of education of chemists and druggists, *ib.* 3783-3787——Suggestion for the adoption of a system of licensing, whereby not only would there be a check against unqualified chemists, but funds would be raised towards defraying the expense of inspection, *ib.* 3787-3790——The 1,200 chemists in London might each pay an annual license fee of 1 *l.*, which should go towards paying for the inspection, *ib.* 3790.

The question of licences may perhaps be properly deferred till it be seen how far the efforts of the Pharmaceutical Society, and a more general system of inspection, may prove successful, *Rep. p.* ix.

See also *Drugs.*

Chicory. Conclusion arrived at by Dr. Carpenter and witness, that there was nothing in chicory injurious to health, *Taylor* 85——Properties and component parts of chicory; it is less nutritious than coffee, *ib.* 85. 132-134.

Frequent adulteration of chicory when it used to be dear; there is but little adulteration now practised, *Gay* 1640. 1695——Instance of large adulteration of chicory with white carrots and parsnips, *ib.* 1640-1642. 1644——Rye is sometimes mixed with chicory to the extent of from 25 to 75 per cent. *ib.* 1644.

Consideration of the data on which witness states that 12,000 tons of chicory are annually used in this country, *Woodin* 2770-2801——Chicory chiefly comes from Holland and Belgium, and is not much grown in England, *ib.* 2802-2806——Case of chicory said to be adulterated with peat dust, *Bingley* 4108-4113——Advantage if there were a duty on chicory, so as to bring it up to the price of coffee, *Postgate* 4357-4367.

Reference to former evidence before the Committee (in 1855), in regard to the use of chicory on the continent, *Hassall* 4390——Circumstance of chicory being used in France and Germany as an aperient, in the case of children, *ib.* 4390. 4653——Diuretic as well as aperient property of chicory, *ib.* 4653, 4654.

See also *Coffee. Fry, Messrs.*

China Clay. Witness produces a sample of China clay, and explains its properties and the facility for mixing it with flour, *Jackson* 3686-3692. 3699——China clay comes from Cornwall, and costs, in its ground state, about 18*s.* a ton, *ib.* 3688. 3696-3698.

Chloroform. Importance of purity in this article, *Blyth* 695, 686——Impurity of every sample of chloroform sent at first to St. Mary's Hospital, Paddington, *ib.* 697-700——Means of testing chloroform, and for distinguishing whether it is adulterated or deteriorated through imperfect preparation, *ib.* 699.

Cinnamon. The alleged adulteration of cinnamon with cassia is very improbable, there being scarcely any difference of price between the two, *Drew* 2938-2943. 2955-2960. 2962.

Statement as to cassia in the stick being sometimes sold for cinnamon in the stick, *Hassall* 4498-4503.

Clapperton, Alexander. (Analysis of his Evidence.)—Grounds upon which witness (in business, till lately, as a baker) complains of injustice having been done to him by a statement in the "Lancet" in 1851 that his bread was adulterated with alum, 3634 *et seq.*

Cocculus Indicus. See *Beer*, 2.

Cocoa. Objection to the mixture of sugar with cocoa, even though an improvement, unless the article be sold as a specified mixture, *Hassall* 4507. 4510-4513. 4661——Relative prices of sugar and cocoa adverted to, *ib.* 4514-4517. 4524-4526——Protection afforded by

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by buying the cocoa nibs, *Hassall* 4518——Genuine flake cocoa obtainable at Ridgways, of King William-street, *ib.* 4518–4521.

Cod Liver Oil. Constant adulteration of cod-liver oil with other fish oils, *Challice* 1536——Sale of an article as brown cod-liver oil which witness believes to be common cod oil; they are, however, essentially the same, *Drew* 3197–3202.

Coffee:

1. *Extent of Adulteration with Chicory, &c.*
2. *Views of Drs. Taylor and Carpenter in recommending, conditionally, a right of Admixture.*
3. *Defence of the Admixture of Chicory.*
4. *Use of Chicory in France.*
5. *Objections to the Right of Admixture.*
6. *Tests for the Discovery of Chicory.*

1. *Extent of Adulteration with Chicory, &c.:*

Witness never detected more than fifty per cent of chicory in coffee, *Taylor* 104–106——Coffee, with fifty per cent. of chicory in it, is quite exceptional, *Abbiss* 315, 316——Witness has found chicory and beans in coffee; until lately indeed chicory was almost always to be found in cheap coffee, *Quekett* 404–409——Purity of coffee bought by witness as genuine, *Blyth* 804–807.

Detection by witness of about twenty-five per cent. of chicory in what was sold as pure coffee, *Bastick* 905, 906. 909——Coffee is largely adulterated, not only with chicory, but sometimes with other vegetable roots, dried and ground up, *Challice* 1519–1528——Effect of the publicity through the "Lancet," in lessening the adulteration of coffee, *Wakley* 2219.

Belief that coffee is not adulterated with any other article than chicory, *Woodin* 2770. 2805——The annual consumption of chicory is about 12,000 tons, and of coffee about 18,000 tons, *ib.* 2770——In the case of the co-operative society or agency to which witness belongs, it is found that the public buy 1 lb. of chicory to 9 lbs. of coffee; inference therefrom as to the undue consumption of chicory under the present deceptive system, *ib.* 2770. 2775, 2776——Chicory is introduced sometimes by the coffee roasters, but more generally by the grocers themselves, *ib.* 2802–2804.

2. *Views of Drs. Taylor and Carpenter in recommending, conditionally, a right of Admixture:*

Dr. Carpenter and witness were consulted by Government in 1853 relative to the mixture of chicory and coffee, *Taylor* 84, 85——Certain proportions of the mixture of chicory wth coffee are preferred by the public, *ib.* 85. 87–92——Chicory may be mixed with coffee, up to a certain proportion, without materially affecting the quality of the latter, *ib.* 85——Preference given by witness to unmixed coffee, *ib.* 87. 93–96.

The maximum admixture of coffee and chicory suggested by Dr. Carpenter and witness, was 10 ounces of coffee to six ounces of chicory, *Taylor* 87–89. 103——Questions laid by Government before Dr. Carpenter and witness, and answers thereto, *ib.* 87. 145——How far more desirable to compel a separate sale of chicory and coffee than to adopt the maximum admixture suggested by Dr. Carpenter and witness; difficulty in properly securing the public from fraud under the former system as compared to the inconvenience to them under the latter plan, *ib.* 107–128. 135–145.

Grounds upon which Dr. Alfred Taylor and witness recommended the adoption of the present distinction between the sale of pure coffee and the sale of coffee mixed with chicory, *Carpenter* 2459–2471——Advantage both as regards price and quality by an admixture of chicory, *ib.* 2461. 2464–2469.

3. *Defence of the Admixture of Chicory:*

Witness submits, that from 70 to 80 per cent. of the public prefer an admixture of chicory, *Abbiss* 305. 317–319. 322. 329. 331–334. 338–340——The mixture preferred is one-fourth of chicory to three-fourths of coffee, *ib.* 306–308. 335——Cheapness of chicory as compared with coffee, temptation to fraud thereby, *ib.* 310–313——Advantage to the public as regards price, quality, and convenience in the admixture of chicory by the vendor, *Abbiss* 313. 317. 331–340; *Carpenter* 2461. 2464–2469.

Objection to the proportions of the mixture being stated to the purchaser, *Abbiss* 314–319. 328–331——Objection to a separate sale of each article, the public being opposed thereto, *ib.* 317–319——Approval generally of the present regulations as regards the sale of "genuine" coffee; the label on the mixed article is a sufficient protection to the public, *ib.* 320-340.

Witness sells ten times as much of the mixture as he does pure coffee, *Abbiss* 322——Any attempt to compel the dealer to state the proportions would be utterly impracticable, *ib.* 328——Improvement in the quality of coffee when chicory is mixed with it in being ground; the volatile oil of the coffee is thus retained, *ib.* 336——Opinion that coffee is improved by an admixture of chicory, *Bastick* 907, 908.

Report, 1856—*continued.*

COFFEE—continued.

4. *Use of Chicory in France:*

In France and in Belgium there is almost universally an admixture of chicory, *Taylor* 98, 99——The practice, however, in France is, that the public generally grind the coffee themselves, and introduce chicory knowingly, *ib.* 100–102.

5. *Objections to the right of Admixture:*

Argument that the admixture of chicory is prejudicial to the fair trader, the consumer, and the revenue, and should therefore be prohibited, *Woodin* 2753–2759. 2807——Coffee sold at 1 *s.* a pound generally consists of half chicory; fraud on the consumer thereby, *ib.* 2755–2757——Amendment desirable in regard to the permission to sell a mixture of chicory and coffee, *Postgate* 4238–4241.

6. *Tests for the discovery of Chicory:*

Facilities for detecting chicory in coffee by means of the microscope existed long previously to 1851, *Taylor* 129–131——Definition of a simple test for ascertaining the presence of chicory; this should be printed on each label which contains pure coffee, *Carpenter* 2462, 2463——Distinction shown by the microscope between the coffee and chicory roots, *Hassall* 4388.

See also *Chicory.*

College of Physicians. Power and practice of the College of Physicians in regard to visiting chemists shops in the city of London, *Blyth* 737–739; *Baiss* 989–992; *Bastick* 934–941——Disuse, to a great extent, of the power of inspection, *Bastick* 934, 935; *Atkinson* 2875——Advantage if the inspection were strictly carried out, *Bastick* 938. 940; *Bell* 2384; *Drew* 3040, 3041. 3101–3106——The inspection seems to be too cursory to be of any great utility, *Rep. p.* ix.

Colocynth. Adulterations in the case of colocynth powder and extract of colocynth, *Hassall* 4398.

Coloured Confectionery. See *Colouring Substances.* *Confectionery.*

Colouring Substances. Noxious character of the yellow colouring matters of oxide of lead, chromate of lead, and sulphuret of arsenic, as used in sugar confectionery, *Taylor* 8——Suggested substitution by law or regulation of harmless colouring matters for those now employed, *Taylor* 8, 9; *Carpenter* 2500——All injurious colouring substances should be prohibited for use in confectionery, *Rep. p.* viii——*See* also *Confectionery.* *Tea,* IV.

Competition. Effect of competition in trade in leading to adulteration, *Taylor* 232, 233; *Gay* 1713, 1714; *Calvert* 2110, 2111; *Mackenzie* 4046——The desire of greater gain, and not the effect of competition or the ignorance of the manufacturers, is one of the chief causes of the adulteration of drugs, *Blyth* 690–694. 746–749——Many honest tradesmen adulterate in self-defence, but object to the practice, *Gay* 1638, 1639. 1659, 1660——Encouragement to dishonesty by the system of competition, *Wakley* 2206.

Confectionery. Extensive and ingenious use of Scheele's green in coloured confectionery, *Taylor* 4–8——Prussian blue and ultramarine (as used in confectionery) are not poisonous, *ib.* 8——Noxious character of vermilion and red lead used in confectionery, *ib.*——Ordonnance of police in Paris, relative to the prohibition of noxious substances in sugar confectionery, *Lewis* 366——Adulteration and colouring matters employed in the case of certain articles of confectionery, *Gay* 1698–1700——There is still considerable and injurious adulteration of sugar confectionery, though much less than was the case a few years ago, *Hassall* 4391.

Special regulations in France for the punishment and prevention of adulteration of confectionery, *Rep. p.* v——The use of mineral or poisonous vegetable matters for the purpose of colouring should be prohibited, *ib.* viii.

See also *Colouring Substances.* *Flavouring Substances.*

Co-operative Societies. Sundry flour societies in Yorkshire besides the one at Leeds, with which witness is connected, *Emerson* 1073, 1074——There has been no conviction for adulteration of flour against any co-operative society, *Farrant* 1284, 1285.

See also *Leeds (People's Flour Mill).* *Rochdale.* *Tea,* I. 2.

Copper. Frequent use, till lately, of sulphate of copper in pickles and preserved fruits, *Taylor* 28——A small quantity of copper or red lead is a large adulteration, *Hassall* 4528. 4532, 4533. 4604. 4606.

Cream. Flour and annatto are mixed with cream, but these are not injurious to health, *Taylor* 83——Belief that cream, like milk, is not adulterated save with water, *Quekett* 425, 426.

Cream of Tartar. Extensive adulteration of this article, *Postgate* 4323–4328.

Creosote. Frequent adulteration of creosote with carbonic acid, *Bastick* 862, 863.

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Criminal Offence. Pernicious adulteration should be declared a criminal offence, *Postgate* 4238.

Curry Powder. The admixture of rice with curry powder can hardly be termed an adulteration of the latter, *Drew* 2993.

D.

Detection of Adulterations. There are some adulterations impossible to detect, *Gay* 1643.

See also *Analysts. Beer*, 6. *Bread*, I. 5. *Coffee*, 6. *Inland Revenue Department. Microscope, The. Tea*, VI.

Divett, Edward, M. P. (Analysis of his Evidence.)—Attends before the Committee, in consequence of information received from a respectable London tea-dealer, in order to controvert the allegation that lie tea is not now imported, nor to be had in the market, 3203–3206——Unwillingness of witness's informant to give evidence in person, 3205. 3214. 3237——Particulars as to the information received from this person, in proof of the recent importation and sale of different kinds of spurious or lie tea; samples of such tea (given by him to witness) laid before the Committee, 3206. 3212–3253.

Instances of ingenious adulteration of tea in this country, by turning what is called scented caper into pearl-leafed gunpowder, 3206–3209——Witness has no direct experience in regard to adulterated or lie tea, 3210——The adulteration or mixture of inferior with good teas is chiefly practised by small dealers, 3211.

With a view to check the importation of unwholesome or spurious articles, witness approves of the suggestion that a duty should be placed upon them, 3253, 3254.

Draft Reports. Report proposed by the chairman, *Rep. p.* xiv-xix——Report proposed by Mr. Moffatt, *ib.* xix-xxv.

Drew, Hayward, & Barrow, Messrs. Witness can safely say that no adulterations in drugs were ever practised by his firm, *Drew* 2906.

Drew, James. (Analysis of his Evidence.)—Member of the firm of Drew, Hayward, & Barrow, wholesale druggists, in the City, 2902——Totally dissents from the evidence which has been given as to the frauds and adulterations practised by druggists, 2903 *et seq.*——Can safely say that no adulterations were ever practised by his firm, 2906——Considers that most of the adulterations alleged to have taken place are quite incompatible, and almost impossible; absence of motive for the practice, 2907 *et seq.*

Evidence showing the great improbability of the adulteration of annatto with turmeric, 2908–2924——Belief that annatto is not adulterated at all, either with turmeric, red lead, or anything else, 2925–2930——Statement as to the great improbability of the adulteration of arrowroot with sago and tapioca, 2931–2937. 2955–2957——The alleged adulteration of cinnamon with cassia is equally improbable, there being scarcely any difference of price between the two, 2938–2943. 2955–2960. 2962.

As regards cayenne, it may be adulterated by pickle manufacturers, but not by respectable druggists, 2944–2948——Good arrowroot is more likely to be adulterated with inferior arrowroot than with potato starch, 2949–2954. 2961——Belief that spices are not adulterated, as alleged by Dr. Hassall, 2963–2965——Impossibility of the alleged adulteration of ipecacuanha with chalk, 2966——Facility of detecting the adulteration of jalap with powdered wood, 2966.

The establishment of the Pharmaceutical Society has given rise to a salutary spirit of inquiry in regard to drugs, but has not tended to prevent adulteration, 2967–2970. 2974–2978——Fallacy of relying upon the microscope as a means of judging of adulteration, 2967——Insufficient allowance made for the fact of the decomposition or deterioration of drugs through being improperly cared for, 2967. 2983, 2984.

Disuse, ever since witness has been in the trade, of the four per cent. system in grinding drugs, 2970–2973——Witness has never heard of flour being mixed with jalap, 2979, 2980——Probability of jalap being often decomposed instead of adulterated, 2981–2984——Desuetude long since of the practice of some druggists to mix lignum vitæ with some powders, 2987–2992——The admixture of rice with curry powder can hardly be termed an adulteration, 2993——The best ginger may be adulterated with inferior ginger but it is not at all likely to be adulterated with turmeric, 2993–3001——Witness never heard of ginger being adulterated with potato flour, cayenne pepper, or mustard husks, 3002.

Exceptions taken to the evidence given in respect to the quantity of English rhubarb grown and used in this country, 3002–3006. 3009. 3019–3030——Large quantity of English rhubarb used as such by Irish poor-law unions, 3005. 3010–3013——High price of Russia rhubarb, as compared with English rhubarb, 3006, 3007——English rhubarb by no means possesses the good properties attributed to it by Dr. Pereira and the authorities at the London Hospital, 3014, 3015. 3017. 3024, 3025.

Belief that, as a rule, wholesale druggists do not adulterate, and that the practice is confined to the non-respectable houses, 3031–3038——Difficulty in establishing an

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Drew, James. (Analysis of his Evidence)—*continued.*

efficient check upon the importation of impure drugs, or in finding fit inspectors for the purpose, 3039. 3064, 3065. 3071–3074. 3089–3096——The supervision system has not been found to answer in America; articles rejected at one port being admitted at another, 3039. 3057–3063. 3074–3088——Advantage, if the power of inspection vested in the College of Physicians were carried out, 3040, 3041. 3101–3106.

Necessary importation of some articles known to be impure, 3044–3047——Opium and scammony, two most important drugs, are both liable to accidental impurity before importation, 3047. 3050. 3066——Statement relative to opium, to the effect that it is imported in a much purer state than has been alleged, 3047–3050. 3054–3056. 3067–3070——Inferior character lately of Egyptian opium, 3051——East India opium is very pure, but it is not imported into England, 3052, 3053.

Professors of pharmacy know less about drugs than pharmaceutical chemists, or wholesale druggists, 3089–3096——As regards prescriptions, medical men are doubtless generally in the hands of the chemists, 3097——Origin of the check in America upon the importation of drugs, 3098, 3099——Great difference in the price and quality of scammony, some being sold at 40 *s.*, and some as low as about 6 *s.* per pound, 3106–3109. 3115–3121——Exaggerated character of evidence as to the adulteration of scammony, 3110–3115.

Doubt as to the mode of disposal of the really worthless scammony, 3122–3128——Belief that inferior drugs generally find their way to the provincial wholesale houses, and through them to the retailers and the public, 3129–3135——The Apothecaries' Company buy their goods of the wholesale druggists, 3135——Mode of supply of drugs to Government adverted to, 3135, 3136.

Suggested imposition of a tax upon the importation of some spurious or inferior drugs, 3137–3158——Reference to the importation and sale of jalap stalks as jalaps, as showing that the same might, to a certain extent, be checked by a tax on the spurious article, 3139–3157——Many articles of medicine, &c. are not admitted into France 3159–3165——Injurious effect of patent or quack medicines upon the public health, 3166–3168. 3180–3183. 3191——Consideration of the means for checking the large sale of patent medicines; suggestion that the stamp duty be doubled, 3169–3179. 3191–3196.

Advantage of simplifying the nomenclature in regard to medicines, and of labelling all goods in English, instead of in Latin, 3184–3189——Persons professing to sell genuine articles should pay a stamp duty, 3196–3198——Fraud in the importation from America, of an article under the name of sarsaparilla, which is not sarsaparilla, 3196, 3197——Sale of an article as brown cod liver oil, which witness believes to be common cod oil; they are, however, essentially the same, 3197–3202.

Druggists. See *Chemists and Druggists. Drugs.*

Drug Grinders. See *Drugs.*

Drugs:

1. *As to Adulteration by Drug Grinders; exculpatory Evidence hereon.*
2. *Extent of Adulteration generally, before Drugs are sold to the Consumers.*
3. *America.*
4. *France.*
5. *Germany.*
6. *Ireland.*
7. *As to the Propriety of a check upon imported Drugs.*
8. *Expediency of an Inspection of Chemists' Shops, together with a System of Penalties.*

1. *As to Adulteration by Drug Grinders; exculpatory Evidence hereon:*

Witness denies *in toto* on behalf of his own firm, and on the authority of the principal drug-grinders, that when drugs are sent to be ground, the loss in the process of grinding is made up by the admixture of some other powders (as stated before the Committee in 1855); this practice has been discontinued for many years, *Baiss* 957–959. 962–968. 977 *et seq.*——In sending goods to the drug-grinder, the practice of witness's firm is to receive them back minus the loss in grinding; loss incurred upon several articles, *ib.* 962–968.

The loss of weight in the process of grinding is borne by the owner; instance, however, of the weight being made up with satinwood sawdust, *Gay* 1652–1655. 1679——Witness was engaged for 30 years as a spice and drug-grinder for wholesale druggists, during which time he rarely ground genuine articles unmixed, *ib.* 1655–1657. 1659. 1667–1687.

Discontinuance for several years past of the extensive adulterations which used to be practised by drug-grinders, *Bell* 2334, 2335——System termed the four per cent. system, existing throughout the drug-grinding trade, when witness commenced business in 1819, *Atkinson,* 2810——This system was, that the drugs sent to be ground were required to be

DRUGS—continued.

1. *As to Adulteration by Drug Grinders; exculpatory Evidence hereon*—continued.

be returned with a loss in weight or quantity of only four per cent., *Atkinson* 2810. 2817, 2818——Witness recommended the abolition of the system, and it has, since 1819, gradually declined, till now it no longer exists, so far as witness is aware, *ib.* 2810. 2815, 2816. 2856-2869——Some doubt existed as to the policy of making medicines stronger than they were considered to be, *ib.* 2810. 2813, 2814.

Loss sustained by various articles during the process of grinding and drying, *Atkinson* 2811, 2812. 2819-2832——The loss of each drug was made up to within four per cent. by the substitution of some inert innocuous matter analogous to itself, *ib.* 2833-2841. 2847-2850——Reason for not making up the loss with water, when there was much evaporation in drying, *ib.* 2834-2836. 2849, 2850——Witness never made up the loss with the sawdust used in the mill, *ib.* 2837-2841.

Articles of inferior quality are, as a matter of course, ground by witness, *Atkinson* 2842-2846——Witness does not understand the original object of the four per cent. system, *ib.* 2851, 2852——The loss of quantity by evaporation in drying, in connexion with the adulteration, does not of necessity reduce the strength of the article, *ib.* 2853. 2855, 2856——Comments upon the evidence given by Mr. Warrington in 1855, in which he testifies to the adulteration by drug-grinders, without specifying the date, *ib.* 2857-2861.

Disuse ever since witness has been in the trade, of the four per cent. system in grinding drugs, *Drew* 2970-2973——Exaggerated character of the evidence given by Mr. Gay and others relative to the adulteration practised in drug-grinding, *Allen* 3856 *et seq.*——Establishment of witness's firm as drug-grinders in 1833, since which period the trade in drugs has greatly improved as regards the purity of the articles, *ib.* 3857-3866. 3890, 3891——Belief that there have not been for several years many dishonest drug-grinders in the trade, though in 1833 there were some whose practices were not correct, *ib.* 3858-3866. 3890, 3891. 3897-3900——Few exceptions to the rule not to adopt the four per cent. system, *Allen* 3864-3873——This system was never practised by witness's firm, *ib.* 3864, 3865——Unfairness of the system, the loss in grinding being very different on different articles, *ib.* 3867——Witness's firm grind any article that is sent to them, but decline to mix any two articles, *ib.* 3879-3881. 3897, 3898.

2. *Extent of Adulteration generally, before Drugs are sold to the Consumers:*

The adulteration of drugs introduces into the practice of medicine the greatest uncertainty and confusion, and often defeats the best-directed efforts of the physician, *Blyth* 673-679; *Hassall* 4398. 4432, 4433——In the majority of cases, however, impurities are accidental rather than fraudulent, *Blyth* 747, 748——Practice of druggists to have books of recipes for making imitations of pure drugs, *Bastick* 922-931——Contradictory statements as to druggists keeping a book of recipes for manufacturing spurious articles, *Baiss* and *Bastick* 971. 993-996.

Some dishonest firms may sell impure drugs to the retail chemists, but the practice of the trade is to sell the pure articles, *Baiss* 977 *et seq.*; *Drew* 3031-3038——Belief that the retail and wholesale dealers abstain generally from adulteration, *Baiss* 1024. 1031-1040——Articles bought by witness's firm for manufacturing purposes are duly tested, and are generally found to be pure, *ib.* 1037-1039.

Large adulteration, or rather substitution in the case of drugs, so that life is often endangered, *Challice* 1536-1539——Pure drugs are sold by some chemists, and at Apothecaries' Hall, *ib.* 1540-1542——Facility with which wholesale druggists can guard against impure drugs, *Neligan* 1779. 1791, 1792——Extensive and dangerous adulteration practised, about the year 1811, at a druggist's in Somersetshire, to whom, at the time, witness was articled as pupil; the articles adulterated were always sent to London, *Wakley* 2204, 2205. 2211——There is a great deal of adulteration in opium, scammony, and other drugs, *ib.* 2286, 2287.

There are three distinct classes of impurity in medicines, two of which, arising either from fraudulent admixture or from articles spoiled or deteriorated in keeping, should carry penalties with them, *Bell* 2327-2331——Facility for procuring pure medicines, *Atkinson* 2883-2885. 2895-2899——Witness totally dissents from the evidence which has been given, as to the frauds and adulterations practised by druggists, *Drew* 2903 *et seq.*——Considers that most of the adulterations alleged to have taken place are quite incompatible, and almost impossible; absence of motive for the practice, *ib.* 2907 *et seq.*

Belief that inferior drugs generally find their way to the provincial wholesale houses, and through them to the retailers and the public, *Drew* 3129-3135——Mode of supply of drugs to Government adverted to, *ib.* 3135, 3136——Drugs are now sold generally in so pure a state that legislative interference is not necessary, *Allen* 3862-3864. 3890-3896——Instances of adulteration in different kinds of drugs, *Bingley* 4096——Belief that there is less adulteration than was formerly the case, and that small dealers are the ones who chiefly practise it, *ib.* 4097-4101. 4165-4169. 4172.

Report, 1856—*continued.*

DRUGS—continued.

2. *Extent of Adulteration generally, &c.*—continued.

Evidence in confirmation of evidence of last session, in regard to the adulteration of drugs, *Hassall* 4391-4398——Nature of the adulteration detected by witness in liquorice, turmeric, powdered rhubarb, colocynth, compound scammony powder, and aromatic confection, *ib.*——Adulteration takes place previously to importation, as well as by the drug-grinder, and by the wholesale and retail chemists, *ib.* 4399, 4400.

The Committee conclude that drugs are extensively adulterated, and that it is difficult to exaggerate the evils arising from the prevalence of the practice, *Rep. p.* iv.

3. *America:*

Origin of the check upon the importation of impure drugs, *Neligan* 1789, 1790; *Drew* 3098, 3099——Inadequacy of the check, *Neligan* 1808——Instances of seizures of impure drugs, as imported, *ib.* 1809-1813.

Reference to, and summary of, a circular or memorial addressed by the President of the College of Pharmacy of New York to the House of Representatives, in 1847, praying for the introduction of a law to prevent the importation of drugs unfit for use, *Bell* 2364-2366—— Principal provisions of the Act passed by the American Congress for preventing the importation of impure drugs, *ib.* 2367. 2369. 2378-2380——Proof of the beneficial operations of the Act, *ib.* 2367-2370——Advantageous co-operation of pharmaceutists for checking adulteration, *ib.* 2368. 2372-2375——Considerable adulteration, however, the only legislative inspection being when in bond, *ib.* 2371. 2380-2382.

The supervision system has not been found to answer, articles rejected at one port being admitted at another, *Drew* 3039. 3057-3063. 3074-3078——Advantage if the strength and quality of drugs and chemicals, as sold to the public, were fixed by regulation in this country as in America, *Postgate* 4350. 4373-4386.

Explanatory comment by the Committee upon the special laws which have been passed, and the mode of carrying them out, *Rep. p.* vi.

4. *France:*

Witness has examined drugs in Paris, but never detected adulteration, *Blyth* 729-731. 733-735——Advantage of the superior education of the French pharmaceutists, *ib.* 732——Efficacious system of public examination of drugs; punishment in the event of adulteration, *Blyth* 732. 736. 756-759. 827, 828; *Calvert* 2139-2149——Every chemist grinds his own drugs, *Blyth* 750-755.

5. *Germany:*

Outline of the system pursued in Germany, whereby chemists are well educated, and drugs are sold in a pure state and at a fixed price, *Richter* 3777-3782. 3806-3830. 3843-3854——System for regulating the prices at which drugs are sold by the chemists, *ib.* 3778, 3779. 3812-3823——Stringent examinations necessary in order to become a chemist, *ib.* 3779——Oath imposed upon the vendor of drugs to obey the laws of the country in regard to the sale of drugs; advantage thereof, *ib.* 3779. 3811. 3825-3830—— In some respects the German system might advantageously and without resistance be adopted in England, *ib.* 3780-3783——The Pharmacopœias of Germany differ, but not so much as those of this country, *ib.* 3802, 3803. 3807-3810.

6. *Ireland:*

Greater purity of drugs in Ireland than in England, on account of the power of inspection in the Dublin College of Physicians, *Neligan* 1719-1721—— Practice of the College of Physicians in Dublin in carrying out the inspection, *ib.* 1721-1724. 1727-1733——It is contemplated to publish the result of the inspection, *ib.* 1721. 1776, 1777——System of classification of shops under the inspection, *ib.* 1724-1726——Hitherto there has not been any penalty for adulteration, not even publicity; power to burn adulterated drugs adverted to, *ib.* 1728-1733. 1774-1777.

Some of the impure drugs in Dublin are imported impure from England, *Neligan* 1733, 1734——Inducement to adulteration in the practice of workhouses and dispensaries to contract for drugs at very low prices, *ib.* 1746-1749——Beneficial operation of the Dublin Apothecaries' Hall, where medicines are always sold in a pure state, *ib.* 1749-1752. 1760-1764——Advantage of the examination and licence necessary before any one can open an apothecary's shop in Ireland, *ib.* 1753-1757——Distinction between apothecaries and chemists, *ib.* 1758, 1759.

Insufficiency of the means and powers of the Dublin College of Physicians for detecting and checking adulterations throughout Ireland generally, *Neligan* 1793-1796. 1818, 1819——Words of the Act by which the Dublin College of Physicians are empowered to inspect and examine, *ib.* 1805, 1806——Belief that in Dublin drugs are more adulterated than anything else, *ib.* 1850. 1871. 1875.

7. *As to the Propriety of a Check upon imported Drugs:*

Advantage of a system of inspection for preventing the importation of impure drugs, *Blyth* 743-745; *Baiss* 960, 961. 969-973; *Challice* 1552-1562——Extensive adulteration

Report, 1856—*continued.*

Drugs—continued.

7. *As to the propriety of a Check upon imported Drugs*—continued.

tion of drugs, both before and after importation, *Bastick* 841–843——Slight security to the consumer by an examination of drugs in bond, *Neligan* 1778. 1788. 1807, 1808, *Rep. p.* ix—— Inexpediency of prohibiting the importation of impure opium, &c., *Neligan* 1779–1787. 1814, 1815; *Richter* 3791–3793. 3834–3838, *Rep. p.* ix.

Advocacy by witness, in 1847, and at the present time, of a system of inspection of imported drugs on arrival in this country, *Bell* 2366. 2383. 2395——Principles by which the inspection of drugs in bond should be guided; all damaged or inferior goods should not be rejected, *ib.* 2387–2395——Difficulty in establishing an efficient check upon the importation of impure drugs, or in finding fit inspectors for the purpose, *Drew* 3039. 3064, 3065. 3071–3074. 3089–3096——Suggested imposition of a tax upon the importation of some spurious or inferior drugs, *Drew* 3137–3158; *Postgate* 4356 *et seq.* ——There might be an inspection of drugs as imported, though it would not be expedient to reject all which were not pure, *Postgate* 4350. 4355–4357. 4368–4380.

8. *Expediency of an Inspection of Chemists' Shops, together with a System of Penalties:*

Advantage to the public if the retail as well as the wholesale druggists were subject to a system of inspection, and, in the event of adulteration, to punishment, *Baiss* 969–976. 989; *Neligan* 1804, 1805. 1816–1828. 1872; *Calvert* 2138. 2150; *Postgate* 4352–4354, *Rep. p.* ix——Expediency of a system of Government inspection in connexion with a central analytical Board, *Atkinson* 2863. 2875–2893——Difficulty in fixing on a remedy against the sale of impure drugs, *Bell* 2377.

Recommended system of inspection of chemists' and druggists' shops, *Richter* 3787. 3789–3794——There might be six inspectors for the 1,200 chemists' shops in London, *ib.* 3789——Chemists might pay a licence fee of 1 *l.*, and chemists' apprentices might pay a fee of about 5 *l.* to go towards the inspection, *ib.* 3790——If drugs be certified by competent analysts to be adulterated, the onus of proving their genuineness should rest with the vendor, *Goodman* 3943, 3944.

See also *Apothecaries' Company. Bark. Calomel. Chemists and Druggists. Chloroform. Cod Liver Oil. Dublin. Dudley. Duty on Imports. Gentian Powder. Gray's Supplement to the Pharmacopœia. Impurities. Jalap. Lime-Juice. Mary's, St., Hospital, Paddington. Newry, Ireland. Nomenclature of Medicines. Opium. Pharmaceutical Society. Pharmacopœias. Powdered Medicines. Prices. Quack Medicines. Rhubarb. Scammony. Spain.*

Dublin. Belief that there is not in Dublin any general adulteration of food prejudicial to health, *Neligan* 1829. 1848, 1849. 1859–1861——Facility for obtaining good bread in Dublin, though adulteration is resorted to, *ib.* 1829–1839——Weekly inspection of meat in the Dublin market by the corporation, under a Local Act, *ib.* 1841–1847——Medical men are frequently disappointed in the effect produced by their prescriptions, through the inferiority of the medicines, *ib.* 1850. 1871. 1875.——*See* also *Drugs*, 6.

Dudley. Sundry instances of adulteration in this town, *Postgate* 4217–4221——Circumstance of drugs having been supplied to some institution in Dudley, at a price less than the price current, and in a very adulterated state, *ib.* 4219–4221.

Duty on Imports. Suggested imposition of a tax upon the importation of inferior drugs, *Drew* 3137–3158.

Witness approves of the suggestion that a duty should be placed upon certain unwholesome or spurious articles, *Divett* 3253, 3254; *Postgate* 4356. 4370.

See also *Ad valorem Duties.*

E.

Egyptian Beans. Instance of large adulteration with water in the case of Egyptian beans sent to a grist mill to be split, *Gay* 1646, 1647.

Emerson, William. (Analysis of his Evidence.)—Manager of the People's Flour Mill at Leeds, established in 1847 in consequence of the dearness and impurity of the flour sold to the public, 1041–1043. 1093. 1157–1159——Before the mill was established, it was generally understood that the bread in Leeds was dear in price and bad in quality, 1044–1046——Case of a person being fined, or rather imprisoned, for putting plaster of Paris into flour, 1045. 1097–1099——The society in question comprises 3,100 members, chiefly of the working classes, 1047, 1048. 1071. 1113, 1114——Amount of business done by the society, 1049, 1050. 1068–1070. 1117–1122——The flour made in the People's Flour Mill is of the best quality, and is never adulterated, 1051, 1052. 1058–1061. 1104, 1105. 1198, 1199——The bread made from it is not so white as the bakers' bread, 1062.

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Emerson, William. (Analysis of his Evidence)—*continued.*

The flour of the society is not cheaper, but is doubtless much better, than that of the dealers generally, 1054–1065. 1096——Admixture generally of inferior flour, in order that low prices may be taken, 1062–1065——Adulteration frequently of oatmeal with the "sharps" taken out of flour, 1066, 1067——The society owning the People's Flour Mill was first under the Friendly Societies Act, but is now under the Provident Societies Act, 1072. 1075–1077——Sundry flour societies in Yorkshire besides the one at Leeds, 1073, 1074——The society sells flour to others than members, and does all the business it can, 1078–1080. 1118–1121.

Checks upon the flour being impure or adulterated before it reaches the hands of the consumers, 1083–1095. 1100, 1101. 1106, 1107——Sundry instances adduced in which there have been convictions for adulterated flour in different parts of Yorkshire, 1102, 1103. 1146, 1147. 1165, 1166——Duties of the directors of the society; they are unpaid, 1108–1112——The shares in the society were one guinea each, and no one can hold more than one share, 1111. 1115——Profitable character of the undertaking; the shares are now worth 2 *l.* 10 *s.* each, 1116. 1123–1126. 1148–1150——About one-third of the customers are not shareholders, 1117——The society takes no direct steps to check adulteration in flour generally, 1127–1132——Large quantity of alum in Leeds bread, as analysed by Mr. C. L. Dresser, 1132, 1133——The liability of the shareholders of the Leeds society, in case of failure, is not limited, 1134–1137.

Expediency of appointing public inspectors in order to check adulteration of flour, &c., 1138–1147. 1161–1165. 1168–1172——Opposition at first to the establishment of the People's Flour Mill, 1151–1153——Benefits, as regards price and quality, resulting from the mill, 1154–1160——Liability of witness, as manager of the society, in the event of the adulteration of the flour, 1173–1175——Distinction drawn by the Leeds magistrates between deleterious and harmless adulterations, 1176–1182——Difficulties in the way of operatives proceeding against shopkeepers or manufacturers, for adulteration, 1184–1197.

Essential Oils. Adulteration, both at home and abroad, of essential oils with turpentine and other fixed oils, *Bastick* 854.——*See* also *Almonds, Essential Oil of.*

Exaggeration. See *Prevalence of Adulteration.*

Excise, The. See *Inland Revenue Department.*

Exposure. See *Publicity.*

F.

Farrant, Edward. (Analysis of his Evidence.)—Bookkeeper and traveller to a corn-mill society at Rochdale, 1200–1202. 1239. 1248——The society was established in order to meet the demand of the public for a pure article, 1203–1208——Loss of 450 *l.* by the society during the first nine months of its existence on account of the dissatisfaction felt with the dark colour of the bread through the absence of alum in the flour, and some defect in the grinding, 1209–1211. 1244–1260. 1263–1268——The price of the flour made by the society was about the same as that of the trade, 1212, 1213.

Particulars as to the society having at the end of nine months resorted to the use of alum in order the better to sell their flour, and to prevent further loss; complete success of this experiment, which was continued in practice for three years, 1214–1218. 1261, 1262. 1269–1272. 1287, 1288. 1296, 1297, 1302–1315——Disuse of alum by the society chiefly in consequence of convictions against some persons in other places for using it, 1219–1222. 1298–1300. 1319——After three years' use of alum the society returned to the sale of pure flour, the prejudice against the colour having to a great extent been removed; further increase of business under this arrangement, 1221–1229. 1272–1279. 1292, 1293. 1298–1300.

Rice is now put into the flour, but witness does not consider this an adulteration, 1221. 1280–1282. 1286. 1316, 1317. 1332–1343——Advantage of the present inquiry in disabusing the public mind in regard to their preference for white bread, 1228, 1229. 1292, 1293. 1301. 1311——Constitution and general operation of the Rochdale society, which numbers about three hundred members, 1230–1239. 1344–1347——The mill was established in 1851; 1240——Legal check only upon adulteration by the society, 1283——There has been no conviction for adulteration of flour against any co-operative society, 1284, 1285.

The flour of the Rochdale society is used chiefly by shareholders; how distributed, 1289–1291. 1294——About ten thousand persons use the flour, 1295——Witness has not heard that the alum when used was unhealthy, 1303–1306——Partial disuse of alum by the bakers when the society left it off, 1311, 1312——Approval of a system of public inspection, such system being much wanted by the public, who are not independent enough to prosecute for adulteration, 1320–1331. 1395.

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Farrant, Edward. (Analysis of his Evidence)—*continued.*

Particulars relative to a co-operative society in Rochdale with which witness is connected, established in 1844 for the purpose of supplying the members, who are all working men, with pure provisions, and for retaining the profits among themselves; beneficial and successful operation of this society, the annual returns of which are about 70,000 *l.*; 1347-1397.

Fines. There should be a fine on the first conviction for injurious adulteration, to be quadrupled on the second conviction, *Challice* 1505——Inadequacy of fines to prevent adulteration, *Hassall* 4452. 4621-4625——Check, however, to the practice of selling chicory and coffee for pure coffee by the fine of 100 *l.* for so doing, *ib.* 4621-4623.

See also *Penalties.*

Fish. The poor can protect themselves against the sale of bad fish, as they can so easily detect it, *Challice* 1467.

Flavouring Substances. Poisonous properties of a substance termed almond flavour, and of compounds sold to imitate the flavour of Jargonelle pear, Ribstone pippin, &c., *Taylor* 14-28.

Flour:

1. *Extent and Character of the Adulterations.*
2. *Law upon the Subject; Amendment desirable.*

1. *Extent and Character of the Adulterations:*

Purity generally of flour, as analysed by witness, *Taylor* 37. 43, 44——Opportunity for largely adulterating bread by the use of bean flour and lentil flour, *ib.* 45, 46. 49——Sundry instances adduced in which there have been convictions for adulterated flour in different parts of Yorkshire, *Emerson* 1102, 1103. 1146, 1147. 1165, 1166——Reduction of the nutritive properties of wheat flour by the admixture of rice flour, *Calvert* 2089. 2092, 2093——The practice of adulterating with alum is prevalent with millers, *Rodgers* 3313.

Particulars as to the addition by witness of a small proportion of bean flour, in order to produce the qualities required by bakers in bread; increase in the strength of the flour, and improvement in the quality by this admixture, *Brown* 3437-3442. 3452 *et seq.*——Beans contain 24 per cent. of gluten, whereas wheat contains only 10 per cent., *ib.* 3437——In selling barley flour in Northamptonshire, witness improves it by an admixture of wheat, *ib.* 3440. 3444-3452——Peas and alum are the only ingredients which witness has understood to be used for improving the colour of flour, *ib.* 3445, 3446. 3474, 3475——Mixture occasionally by witness of rice with flour; belief that the bread is not rendered inferior thereby, *Brown* 3470-3472. 3499-3505.

Strong impression that flour, as bought by witness and other bakers generally, does not contain alum, *Callard* 3537-3548——Fraud if millers use beans or rice to any large extent, *ib.* 3581-3585——Alum is, or has been, extensively used by millers, it being less discoverable when ground with the wheat than when mixed with the flour, *Jackson* 3719-3724——Cases of adulteration of flour as examined by witness; use of foreign meal, gypsum, and bone-dust, *Bingley* 4137-4141——Instance at Lincoln of flour being adulterated with plaster of Paris, *Postgate* 4215-4217——Frequent mixture of rice flour or bean flour with wheat flour, in order to whiten it, *Hassall* 4389. 4534——Grounds for witness's evidence last Session, that flour is adulterated with "mineral white or hydrated-sulphate of lime," *ib.* 4607-4609.

2. *Law upon the Subject; Amendment desirable:*

Defective state of the law in regard to the adulteration of wheat flour, *Calvert* 2080-2083. 2086, 2087——The restrictions as to manufacture under the Act 6 & 7 Will. 4, c. 37, should be abolished, *Brown* 3437——Greater restrictions lately upon the use of alum and bean flour than was the case a short time since, *ib.* 3456-3459. 3523-3526——Inexpediency of interdicting the admixture of bean flour; such prohibition would injure the country millers without benefiting the public, *ib.* 3506-3522.

Witness, who is a miller near Wakefield, has recently been prosecuted on a charge of adulterating flour, which charge was disproved on the trial; sundry ingredients said to have been used, *Jackson* 3673-3676. 3711-3713. 3724. 3772, 3773——Process, under the law, relative to prosecutions, *ib.* 3679, 3680. 3705——Unsatisfactory state of the law in regard to the inspection of mills devolving on persons totally incompetent to judge of the quality of flour, *ib.* 3715, 3718. 3724. 3730-3739. 3742.

Suggested inspection of mills by persons well conversant with flour; they might inspect all flour in mills and wheat within certain districts, and should not inspect any thing else, *Jackson* 3716-3718. 3441, 3742——The inspection should be very frequent and should take place at any hour of the day or night, *ib.* 3717. 3729. 3735——Expediency of a night inspection, *ib.* 3717. 3735-3737——Effect of the power to seize impure flour in deterring adulteration, *ib.* 3724-3728——Statement to the effect that the prohibition against mixing the flour of peas, or beans, or barley with wheat flour, is not desirable, and that such mixture should, under certain conditions, be allowable, *ib.* 3752-3762. 3765——

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Flour—continued.

2. *Law upon the Subject, &c.*—continued.

The use of alum by millers should certainly be interdicted, *Jackson* 3764-3767——Instead of large quantities of flour being liable to be seized under the Nuisances Removal Act, smaller quantities should first be taken and tested before proceedings are taken, *ib.* 3772, 3773.

Circumstance in one case of there having been no conviction (though the adulteration was proved), in consequence of the information not having been made within forty-eight hours after the seizure; clause of the Act hereon, *Bingley* 4141-4152. 4201-4204——Nature of the restrictions upon the ingredients of flour, *ib.* 4198——Particulars relative to the case of seizure of flour belonging to Mr. Crosby, of Rotherham; possibility of the flour having been tampered with after seizure, *ib.* 6153-6159. 4194-4197——When seizures are made, the space of a week should be allowed for laying informations, *ib.* 4209-4211.

See also *Act* 6 & 7 *Will.* 4, *c.* 37. *Bread. China Clay. Goole. Leeds* (*People's Flour Mill*). *Nuisances Removal Act. Poor Law Unions. Rochdale*, 1.

France. Legislative interference in France for the prevention of injurious adulterations; sundry substances prohibited, *Taylor* 10-13. 229, 230. 235——Penalties simple and cumulative inflicted in cases of adulteration, *Taylor* 188-190. 247; *Lewis* 350-356——Many of the sanitary measures in France might be imitated with advantage in this country, *ib.* 343-368.

Particulars relative to the constitution and mode of operation of the Conseil de Salubrité Publique, and the Conseil de Santé Publique, the two Boards in Paris, for regulating all matters relative to the public health, *Lewis* 345; *et seq.* 376——Ordonnances of the police in 1851. which regulate the proceedings of the Conseil de Santé Publique, which more particularly deals with the question of adulteration of food, *ib.* 346-351. 376——The public may bring cases of adulteration before the council, and inspectors are also employed for purposes of detection, *ib.* 351-357. 362——The Conseil de Santé Publique is proposed to be extended to the French Provinces, where confectionery, &c. is much worse than in the capital, *ib.* 363. 382-385.

Systems in Paris and the French provinces for the discovery of adulteration in drugs and food; beneficial operation of the penalties inflicted, *Calvert* 2139-2149——Many articles of medicine, &c. are not admitted into France, *Drew* 3159-3165.

Resumé by the Committee of the French law and police regulations, and of the several punishments provided therein, *Rep. p.* v.

See also *Bread*, IV. *Chemists and Druggists. Coffee*, 4. *Drugs*, 4.

Fraudulent Adulterations. An adulteration which is a commercial fraud, though not injurious to health, should be punishable, *Lewis* 386-391——Sundry articles, more especially drugs, in which witness has detected fraudulent adulteration; particulars hereon, *Bastick* 847 *et seq.*——Fraud upon the public in selling any article under a false name, *Bastick* 944-955; *Gay* 1703. 1706. 1710-1712.

Proposition for dealing with fraudulent adulterations, not only in food and drugs, but in all other matters, through means of a public prosecutor, who should proceed on evidence supplied by local analysts or inspectors, *Postgate* 4238. 4255-4261——Definition of fraudulent adulterations, *ib.* 4248. 4318-4343——Fraud upon the poor in the case of tea and coffee, *ib.* 4261.

Legislative interference recommended whenever the adulteration involves a direct pecuniary fraud, *Rep. p.* iv——Whenever a fraudulent intention can be proved, a penalty should be inflicted, *ib. p.* vii——What constitutes fraud must be left to the interpretation of the administrators of the law, *ib. p.* vii, viii.

Fry, Messrs. Inaccurate analysis by Dr. Hassall in the case of chicory sold by Messrs. Fry, of Bristol; heavy expense to Messrs. Fry in proving this inaccuracy, *Carpenter* 2479. 3488.

G.

Gay, Richard. (Analysis of his Evidence.)—Superintendent of the Government mustard manufactory at Deptford, which was erected about eighteen months ago, in consequence of the great difficulty of obtaining pure mustard, 1598, 1599. 1601-1603. 1622——Was formerly a mustard and chicory manufacturer, and drug and spice grinder, 1600, 1601——The difficulty in obtaining pure mustard arises partly from the fact of its turning black after it has been some hours mixed, 1604, 1605. 1660, 1661——The adulteration is practised more on account of the price than for the sake of improving the colour, 1605.

Use invariably of turmeric for colouring mustard, the other main adulteration being wheat flour; other substances used, 1607-1613—Character and extent of the adulteration practised

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Gay, Richard. (Analysis of his Evidence)—*continued.*

practised by witness when in the trade, 1610–1612——Belief that turmeric is not prejudicial to health, 1613——Large quantity of gypsum and other ingredients found by witness in mustard supplied to Government, 1613–1621. 1629–1631——Purity of the mustard now supplied to the Royal Navy, 1624, 1625——Facility for detecting turmeric in mustard by means of ammonia; illustration of this, 1625–1628. 1631—— Wholesomeness of good mustard, 1633——Circumstance of there being as much essential oil in the refuse of the mustard as in the mustard flour, 1633–1638

Many honest tradesmen adulterate in self-defence, but object to the practice, 1638, 1639. 1659, 1660——Frequent adulteration of chicory when it used to be dear, there being but little adulteration now practised, 1640, 1695——Instance of large adulteration of chicory with white carrots and parsnips, 1640–1642. 1644——There are some adulterations impossible to detect, 1643——Fraud in mixing charlock seed with mustard; this cannot be detected, 1643. 1645, 1646——Rye is mixed with chicory to the extent of from 25 to 75 per cent., 1644.

Instance of large adulteration with water in the case of Egyptian beans sent to a grist mill to be split, 1646, 1647——Sale of English rhubarb chiefly as Turkey rhubarb, 1650, 1651. 1695–1697——The loss of weight in the process of grinding drugs is borne by the owner; instance, however, of the weight being made up with satinwood sawdust, 1652–1655. 1679——Witness was engaged for thirty years as a spice and drug grinder for wholesale druggists, during which time he rarely ground genuine articles unmixed, 1655–1657. 1659. 1667–1687——Instances of adulterations being now practised which some years ago were not known, 1658. 1688–1692.

Witness has had as much practical experience in regard to adulteration as any one, and has done all in his power to expose and check it, 1659——Use of corrosive sublimate, as well as of sulphuric acid and oil of vitriol, in vinegar, 1662–1666 ——Witness has ground large quantities of cocculus indicus, which he believes ultimately went into beer, 1669–1672——The check of the Excise sometimes prevents adulteration, 1693——Reference to pepper dust as a well-known adulterating article; how manufactured, 1693, 1694.

Mustard, vinegar, and pepper are adulterated as much as any other articles, 1695—— Adulteration and colouring matters employed in the case of certain articles of confectionery, 1698–1700 ——Extensive adulteration of milk with a decoction of white carrots, 1700–1705——Fraud is committed in selling any article under a name which the seller knows to be wrong, 1703. 1706. 1710–1712.

Belief that seven out of every ten articles are adulterated, 1707——There is probably much adulteration before importation, 1708, 1709——Adulteration of Russian isinglass with Brazilian isinglass, which is less than half the price, 1710——Parties often adulterate in order to reduce their price for the sake of custom, 1713, 1714——There is at present no protection to the public against adulteration, 1715.

Gelopega. Use of a compound termed gelopega in the manufacture of London port wine, *Taylor* 71–76.

General Board of Health. Machinery suggested in connexion with the General Board of Health, for the detection and punishment of adulterations, *Wakley* 2213. 2227. 2258, *Rep. p.* viii, ix.

See also *Central Board.* *Local Boards.*

Gentian Powder. Immense adulteration in the case of compound gentian powder, *Bastick* 863, 864——Rare instances in which compound gentian powder is likely to be sold; witness never sells it, *Baiss* 997–1006. 1011. 1015–1018——Reference to powdered gentian as chiefly or entirely used for horses and cattle, *Bell* 2335.

German Yeast. Purity of German yeast as analysed by witness, *Taylor* 50.

Germany. Efficacious measures adopted in Germany for preventing adulteration in drugs, &c., *Bastick* 882, 883. 886; *Richter* 3777–3782. 3806–3830. 3843–3854.

See also *Drugs*, 5.

Gin. Witness has not analysed gin, but believes it to be largely adulterated, *Taylor* 80, 81 ——Authority of others for witness's statement, in 1855, that gin was adulterated with sulphuric acid, *Hassall* 4610.

Ginger. The best ginger may be adulterated with inferior ginger, but it is not at all likely to be adulterated with turmeric, *Drew* 2993–3001——Witness never heard of ginger being adulterated with potato flour, Cayenne pepper, or mustard husks, *ib.* 3002.

Glasgow. General belief in Glasgow that adulteration is practised wherever it is possible, *Mackenzie* 3978–3980. 3991–4041, 4042. 4046–4049. 4078–4091——Extent to which witness of his own knowledge can speak to the practice of adulteration, *ib.* 4001 *et seq.* ——Instance of adulteration in drugs supplied to the Town's Hospital *ib.* 4002–4006 ——Statement in proof of the adulteration of tea, *ib.* 4048. 4059–4075——General feeling

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of the people of Glasgow that legislative interference is necessary, *Mackenzie* 4049, 4050. 4078–4088——Witness constantly receives complaints from correspondents as to the practice of adulteration, *ib.* 4089–4091.

Goodman, Samuel Robert. (Analysis of his Evidence.)—Has been legal adviser for thirteen years to the justices of the City of London, 3902, 3903——During that period the justices have never been called upon to exercise their jurisdiction with respect to the adulteration of food, 3904–3906——State of the law at the present time as regards those who adulterate food, 3907, *et seq.*——Power under the Apothecaries' Act to punish apothecaries for the sale of adulterated drugs, 3917.

As a general principle, the adulteration of food, as affecting an individual and not a public body, is not an indictable offence, 3919–3924——Inability and indisposition of the poorer classes to institute actions at law in cases of adulteration, 3925–3928. 3938. 3941. 3942. 3958–3969——Instances of conviction against parties for selling goods under false pretences, that is, for substituting one article for another, 3929–3933——Probability of steps being taken by the London public, under the Act 3 Geo. 4, c. 106, (relative to bread) if the provisions of such Act were generally known, 3936–3940.

Expediency of a right of search as a means towards checking adulteration, 3943——As regards drugs, if certified by competent analysis to be adulterated, the onus of proving their genuineness should rest with the vendors, 3943, 3944——The local magistrates should have power to refer articles to a central body in London, 3945, 3946. 3953. 3957——There should be a general Act, upon the principle of the Metropolitan Bread Act, power being given to inspectors to prosecute, 3947. 3952——Expediency of local Boards throughout the country in order to carry out the proceedings, 3953–3956.

Goole. Circumstance of a miller at Goole having been recently prosecuted for an admixture of China clay with flour; fine in this case of about 50 *l.*; *Jackson* 3681–3687. 3693–3708. 3743–3751. 3768——Doubt as to the miller having been really guilty in the matter, *ib.* 3701–3708. 3743–3751.

Gray's Supplement to the Pharmacopœia. Reference to a book of recipes for imitations of drugs termed "Gray's Supplement to the Pharmacopœia," which is easily obtainable, *Bastick* 925–931.

H.

Hair Dyes. Danger to health from the use of oxide of lead in hair dyes; instance thereof, *Taylor* 28.

Hamburg. Adulterations of food are the subject of police regulations involving fine and imprisonment, *Rep. p.* vi.

Hassall, Arthur Hill, M. D. (Analysis of his Evidence.)—Explanation relative to certain diagrams prepared for the purpose of illustrating the successful application of the microscope to the discovery of adulteration, 4388, 4389——Frequent mixture of rice flour or bean flour with wheat flour in order to whiten it, 4389. 4534——Authority of Baron Liebig adverted to as showing the injurious property of alum in bread, 4389——Liebig recommended lime-water in lieu of alum as a means of improving the colour of bread; disapproval thereof, 4389, 4390. 4651, 4652——Objections to alum in bread, independently of the question of its being injurious, 4390.

Reference to former evidence before the Committee in regard to the use of chicory on the Continent, 4390——Circumstance of chicory being used in France and Germany as an aperient in the case of children, 4390. 4653——Samples of adulterated tea produced and explained, 4390. 4653——Purchase within the last few days of some tea containing a proportion of lie tea, 4390, 4391. 4644——Explanation as to the very extensive adulteration of annatto, 4391——Considerable and injurious adulteration of sugar confectionery, though much less than was the case a few years ago, 4391.

Evidence, in continuation of evidence of last Session, in regard to the adulteration of drugs, 4391–4398——Nature of the adulteration detected by witness in liquorice, tumeric, powdered rhubarb, colocynth, compound scammony powder, and aromatic confection, 4391–4398——The adulteration of drugs introduces into the practice of medicine the greatest uncertainty and confusion, and often defeats the best-directed efforts of the physician, 4398——Adulteration takes place previously to importation, by the drug-grinder, and by the wholesale and retail chemists, 4399, 4400.

Correction of the evidence of Mr. Phillips in 1855 (Q. 2483) as to witness having examined beer by means of acetate of lead, 4400——Explanatory statement relative to the evidence of Mr. Clapperton, 4400–4413——Witness could, of himself, easily make 100 microscopical examinations in a week, 4414, 4415——With proper assistance he could make from 200 to 300 examinations weekly, 4416–4419——Concurrence in the statement

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Hassall, Arthur Hill, M.D. (Analysis of his Evidence)—*continued.*

ment of Mr. Rodgers that cocculus indicus in beer may be detected, though the test is a laborious one, 4420–4423. 4560.

Definition of adulteration as the intentional addition to an article, for purposes of gain or deception, of any substance or substances, and the presence of which addition is not acknowledged in the name under which the article is sold, 4424. 4434–4436. 4661–4669——Expediency of a specification distinguishing between pernicious and fraudulent adulterations, 4425–4431——All adulterations of drugs are indirectly pernicious, 4432, 4433——Facility of a specification in regard to the mixture of chicory and coffee as well as of all compound articles, 4434–4436.

Suggestion that parties convicted of adulteration should be obliged to placard the judgment against them in their windows for different periods, 4438——Importance in the first instance of a central authority to issue regulations, 4439, 4440——Advantage in the local inspectors being locally appointed, 4439, 4440——Probable facility in obtaining competent local officers to carry out preventive measures, 4441–4443——The Board of Inland Revenue might be adapted to the functions requisite in a central Board, 4444–4446.

Main importance of publicity as a means of checking adulteration, 4447–4452——Inadequacy of fines to prevent adulteration, 4452. 4621–4625——There is not one-twentieth part of the adulteration now prevailing that did prevail some four or five years ago, 4452——Doubt as to the advantage of appointing a learned commission to inquire into the effect of alum in bread, and of other admixtures, 4453, 4454——Apathy of the public in regard to undertaking prosecutions under the Bread Act, 4455, 4456.

In his microscopical and chemical examination witness frequently made numerous analyses of one article, and tested altogether between 2,000 and 3,000 samples, over a period of four or five years, 4457–4462——Separate analyses were not required, when using the microscope, in order to discover the presence of separate bodies in any article, 4463–4466. 4504–4506——Grounds upon which witness has stated that anchovies are mixed with Dutch, French, and Sicilian fish, 4467, 4468.

In 99 cases out of 100, witness testified in his former evidence to the existence of adulteration through his own personal knowledge and not on the statements of others; examination hereon, 4469–4475. 4603. 4607–4620——Statement as to bread being sometimes adulterated with sulphate of copper in this country as well as in France and Germany, 4470–4474——An excess of water in butter one-third of the article for instance, should certainly be considered an adulteration, 4476–4481. 4487, 4488——Various quantities of water found by witness in butter, 4482–4486——Question as to the expediency of preventing the importation of butter containing an excess of water; a system of drawback would be a better plan, 4489–4497.

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Grounds for the statement that stout, as sold by publicans, is considerably adulterated with water, 4544–4555——Adulteration also of porter adverted to, 4544–4548——Inability of the poor man to enter into the question of adulteration of beer, or to avoid being defrauded by the practice, 4556–4559——Witness has not detected cocculus indicus in beer, 4560–4563.

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Authority of others for the statement that porter and ale are adulterated with grains of paradise, capsicum, and wormwood, 4615-4619——Presence of insects, called acari, in all brown sugars adverted to as showing the desirableness of using refined or crystallised sugars, 4626-4634——Belief as to the colouring matters used in green tea being prejudicial to health, 4635-4637——Further statement as to the use of lie tea within recent periods, 4640-4646.

Less perfect admixture of adulterating agents in the case of solid substances than of powders, 4647——A small quantity of sulphuric acid in vinegar is a large adulteration, 4649——Grape sugar is present naturally in cane sugar; it has also been introduced intentionally, 4650——Diuretic as well as aperient properties of chicory, 4653, 4654——Though the substitution of one article for another may not be adulteration, it equally requires legislative interference, 4655-4661——Difficulty of determining the amount of dilution which should constitute adulteration in the case of wine, 4661-4667.

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Whatever system be adopted, the Legislature should protect the public from all adulterations injurious to health, *Challice* 1563-1567——Injury to health by the adulteration of pickles, bread, and confectionery, *Wakley* 2285. 2299-2301——Testimony to the injurious effect of certain adulterating substances upon the public health, *Carpenter* 2419 *et seq*; *Hassall* 4602, 4603——Doubt as to the advantage of appointing a learned commission to inquire into the effect of alum in bread, and of other admixtures, the injurious properties of the same being already determined, *Hassall* 4453, 4454.

Comment by the Committee upon the injurious effect of adulterations, generally and specifically, upon the public health, *Rep. p.* iii, *et seq.*

See also *Almonds, Essential Oil of. Beer. Bread,* I. 3. II. *Coffee. Colouring Substances. Confectionery. Copper. Drugs,* 1. 2. *Flavouring Substances. Flour,* 1. *France. Meat. Milk. Pickles. Preventive Measures. Tea,* IV. *Vinegar.*

Holland. Severe punishment, by imprisonment or fine, in the case of the sale of adulterated articles injurious to health, *Rep. p.* vi.

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Horse Powders. Practice in regard to the preparation of compound horse powders by wholesale druggists; decrease in the number made, *Atkinson* 2869. 2873-2875——Doubt as to the materials employed in horse medicines being used in medicines for the public, *ib.* 2870-2872.

Hydro-Chloric Acid. A sample of hydro-chloric acid, sent to St. Mary's Hospital, Paddington, contained four or five grains of arseneous acid, *Blyth* 700.

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Impurities. Necessity of a careful chemical examination, in order to distinguish between adulterations and accidental impurities, *Taylor* 207, 208——The sale of naturally inferior qualities of goods should not be prohibited or punished, *Wakley* 2282, 2283——Impurity in drugs, when the same arises from unskilful preparation, should not be punishable, *Bell* 2327, 2328——Great variation naturally in the qualities of several important drugs *Atkinson* 2876, 2878. 2894-2900.

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important drugs, are both liable to accidental impurity before importation, *Drew* 3047. 3050. 3066.

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Indigo. Reference to the analysis by witness of a cargo of indigo, which was found to contain a large proportion of Prussian blue, *Taylor* 200, 201.

Injurious Adulterations. See *Health.*

Inland Revenue Department. Instances of proceedings wrongfully taken by the Excise in the case of tobacco and beer, to the great injury of the parties concerned, *Thompson* 614–617. 645. 651–656——Witness has often been employed against the Excise, *ib.* 618, 619——The check of the Excise sometimes prevents adulteration, *Gay* 1693——Inadequacy of the proceedings of the Excise for the prevention of adulteration, which they treat merely as a question of revenue, *Wakley* 2210–2213. 2234.

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Ipecacuanha. Impossibility of the alleged adulteration of ipecacuanha with chalk, *Drew* 2966.

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Isinglass. Evidence on the subject of adulteration in isinglass, to the effect that the gelatine in patent refined isinglass made in this country is superior to the imported isinglass, *Taylor* 146–169——Inferior quality of Brazilian isinglass as compared with Russian, for which it is often sold in this country, *ib.* 146. 160——Means for detecting adulteration in isinglass or gelatine, *ib.* 147. 152. 162, 163——How the patent isinglass is made, *ib.* 148——Inferior quality of the gelatine or isinglass imported from France, *ib.* 154–158. 161, 162.

Adulteration of Russian isinglass with Brazilian isinglass, which is less than half the price, *Gay* 1710——Doubt as to the so-called isinglass made in this country being equal to the isinglass imported, *Wakley* 2280, 2281.

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Jackson, John. (Analysis of his Evidence)—Miller, near Wakefield, 3668——Has recently been prosecuted on a charge of adulterating flour, which charge was disproved on the trial; sundry ingredients said to have been used, 3669–3672. 3709, 3710. 3714. 3761——Summary manner in which the Nuisances Removal Act was enforced on the occasion by the local inspector, 3673–3676. 3711–3713. 3724. 3772, 3773——The power under the Nuisances Removal Act, in regard to the seizure of flour, may be so exercised as to be

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Effect of the power to seize impure flour in deterring adulteration, 3724-3728—— Inexpediency of the system under the Nuisances Removal Act, whereby one person inspects meat, flour, drainage, &c., with all of which things he cannot be conversant, 3730-3740——Instance of a conviction for adulteration with alum, near Wakefield, 3735. 3743-3747——Statement to the effect that the prohibition against mixing peas or beans with flour is not desirable, and that such mixture should, under certain conditions, be allowable, 3752-3761. 3765.

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Jalap. Facility of detecting the adulteration of jalap with powdered wood, *Drew* 2966—— Witness has never heard of flour being mixed with jalap, *ib.* 2979, 2980——Probability of jalap being often decomposed instead of adulterated, *ib.* 2981-2984——Reference to the importation and sale of jalap stalks as jalap, as showing that the same might to a certain extent be checked by a tax on the spurious article, *ib.* 3139-3157.

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"*Lancet,*" *The.* Grocers and others have sought witness's opinion relative to statements in the "Lancet," which statements he has confirmed as to the articles in question being adulterated, *Quekett* 409. 417-419. 432, 433——Instances of inaccuracy in the analysis conducted by Dr. Hassall for the "Lancet." *Thompson* 604, 605; *Carpenter* 2479. 2485-2491——Good effect, for a time, of the "Lancet" investigations, *Bastick* 881.

Witness has paid considerable attention to the question of adulteration, and in 1851 devoted a portion of the "Lancet" to the exposure of the practice, with a view to its prevention by the Legislature, *Wakley* 2202-2204——Large number of names published in the "Lancet" as connected with the sale of adulterated articles; enemies made thereby by witness, though there was no prosecution against him, *ib.* 2220-2223——Accurary and fidelity with which the sanitary commission of the "Lancet" was conducted by Dr. Hassall, *ib.* 2226-2268——Number of trades inquired into by the commission, *ib.* 2245, 2246——Course adopted in the purchase of samples for analysis, *ib.* 2251.

Inadequacy of one person to make the number of analyses published weekly by Dr. Hassall, *Carpenter* 2479-2484——Probability that several persons would have brought actions against the "Lancet" but for the expense, *ib.* 2488-2491——Inaccuracy imputed to Dr. Hassall in regard to the result of his examinations as to the existence of alum in bread, *Callard* 3599-3601.

In his microscopical and chemical examination witness frequently made numerous analyses of one article, and tested altogether between 2,000 and 3,000 samples, over a period of four of five years, *Hassall* 4457-4462.

See also *Bread*, I. 6. *Fry, Messrs.* *Vinegar.*

Lard. Authority of others for witness's statement that lard is adulterated with mutton suet, alum, and potash, *Hassall* 4611-4614.

Leeds. Before the People's Flour Mill at Leeds was established in 1847, it was generally understood that the bread was dear in price and bad in quality, *Emerson* 1044-1046—— Case of a person being fined, or rather imprisoned, for putting plaster of Paris into flour, *Emerson*

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Emerson 1045. 1097–1099——Admixture generally of inferior flour in order that low prices may be taken, *ib.* 1062–1065——Instances of adulteration at Leeds of coffee, vinegar, mustard, &c., *Postgate* 4222.

Leeds (*People's Flour Mill*). The society in connexion with the People's Flour Mill comprises 3,100 members, chiefly of the working classes, *Emerson* 1047, 1048. 1071. 1113, 1114——Amount of business done by the society, *ib.* 1049, 1050. 1068–1070. 1117–1122——The flour made in the people's mill is of the best quality and is never adulterated, *ib.* 1051, 1052. 1058–1061. 1104, 1105. 1198, 1199——The bread made from it is not so white as the baker's bread, *ib.* 1062——The flour of the society is not cheaper, but is doubtless much better than that of the dealers generally, *ib.* 1054–1065. 1096——The society was first under the Friendly Societies Act, but is now under the Provident Societies Act, *ib.* 1072. 1075–1077.

The society sells flour to others than members, and does all the business it can, *Emerson* 1078–1080. 1118–1121——Checks upon the flour being impure or adulterated before it reaches the hands of the consumer, *ib.* 1083–1095. 1100, 1101. 1106, 1107——Duties of the directors of the society; they are unpaid, *ib.* 1108–1112——The shares in the society were one guinea each, and no one could hold more than one share, *ib.* 1111. 1115——Profitable character of the undertaking; the shares are now worth 2 *l.* 10 *s.* each, *ib.* 1116. 1123–1126. 1148–1150——About one-third of the customers are not shareholders, *ib.* 1117.

The society takes no direct steps to check adulteration in flour generally, *Emerson* 1127–1132——The liability of the shareholders in case of failure is not limited, *ib.* 1134–1137——Opposition at first to the establishment of the mill, *ib.* 1151–1153——Benefits, as regards price and quality, resulting from the mill, *ib.* 1154–1160——Liability of witness, as manager of the society, in the event of adulteration of the flour, *ib.* 1173–1175.

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Lewis, Waller, M.B. (Analysis of his Evidence.)—Medical officer under the Post-office, 341——Was deputed by the Secretary of State for the Home Department to make inquiries in Paris relative to the French law upon matters affecting the public health, 342, 343——When in Paris was in constant communication with M. Trebuchet, the Chef de Salubrité Publique, 343, 344——Drew up a report on the French laws in question, 343——Concludes that many of the sanitary measures in France might be imitated with advantage in this country, 343. 368.

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Less adulteration of food in Paris than in London, 367——Suggested formation of a central department in this country to be attached to the General Board of Health, and to have powers similar in the main to those of the Conseil de Santé Publique, 368–376——There might be a local machinery, through means of Local Boards of Health, 371. 381——Approval of the infliction of penalties by the Central Board, rather than of its being left to the public to proceed on evidence supplied by the Board, 377–380——An adulteration which is a commercial fraud, though not injurious to health, should also be punishable, 386–391.

Licensed Traders. Advantage of requiring every trade to be licensed, *Challice* 1550——The expenses of carrying out public inspection might be defrayed by making tradesmen pay a small licence fee yearly, *Rodgers* 3274.

Witness delivers in a return, dated Inland Revenue Office, 1 May 1856, of the number of Excise licences issued within the Bills of Mortality in the year 1855, classed in trades, *Moffatt* 4387.

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Lime Juice. Considerable adulteration in the case of four samples of lime-juice examined by witness, *Blyth* 671–674——Instances of extensive and injurious adulteration of lime-juice as sold at Liverpool, *Bingley* 4114–4125. 4131–4136——Small demand for lime-juice in Sheffield; it is probably adulterated there also, *ib.* 4126–4130.

Lincoln. Cases in this town of adulteration of flour, meal, coffee, vinegar, mustard, and other articles, *Postgate*, 4215–4217——Feeling of the people of Lincoln in favour of legislative interference, *ib.* 4217.

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Linseed Dust. Extensive adulteration detected therein by witness, *Bingley* 4094.

Liquorice Powder. Occasional sale of compound liquorice powder to country retail dealers for rolling horse medicines in, *Baiss* 1006–1010. 1013.

Details relative to extensive adulteration in the case of liquorice or liquorce powder; ingredients employed, *Hassall* 4391–4397.

Local Boards Local machinery suggested in connexion with Local Boards of Health for the prevention of adulteration, *Lewis* 371. 381; *Wakley* 2227–2230. 2242. 2289–2292 ——Expediency of Local Boards throughout the country, in order to carry out the proceedings, *Goodman* 3953–3956——Municipal or other local or district authorities should appoint officers or inspectors who should procure samples for analysis, *Rep. p.* viii.

See also *Analysts.* *Central Board.* *Inspection.*

Locock, Richard. (Analysis of his Evidence.)—Wholesale tea-dealer; does business chiefly with country buyers, 2009–2012——Fully concurs in the statements of Mr. Ripley and Mr. Weston, that tea is now imported in a pure state, 2013. 2018–2020——Has never sold spurious tea, and does not believe that wholesale dealers generally do so, 2014–2017. 2051–2059——Considers that retail dealers sell the tea in the same pure state in which it is for the most part sold to them; experience in support of this statement, 2021. 2036–2050——The taste of the public is an ample protection against adulterated or inferior tea, 2022. 2033. 2043. 2066. 2071.

If lie tea were sold as tea it would be a fraud, and steps should be taken to punish the seller, 2034, 3035. 3072–2075——There is now no demand for lie tea, and it is not imported, 2057–2059. 2070——Lie tea pays duty as tea; impropriety thereof, 2060–2062. 2067, 2068——The wholesale dealer, the retailer, and the consumer, can protect themselves against lie tea, and do not require legislative interference, 2064–2075.

London. Calculation that adulteration may be put down in London at an expense of 10,000 *l.* a year; *employés* suggested for the purpose, who should act on the principle of the "Lancet" commission, *Wakley* 2242–2244. 2253–2272——Three or four examiners and half a dozen purchasers would be sufficient, *ib.* 2253–2257.

During the last thirteen years the justices of the City of London have never been called upon to exercise their jurisdiction with respect to the adulteration of food, *Goodman* 3904–3906.

Lubeck. Adulterations of food are treated as frauds and are dealt with by police authority, *Rep. p.* vi.

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Mackenzie, Peter. (Analysis of his Evidence.)—Editor of the "Reformers' Gazette," a Glasgow paper, 3970, 3971——Particulars relative to the adulteration, in 1847, of a large quantity of oatmeal provided to meet destitution in the Highlands; part taken by witness in the matter, which led to the imprisonment of the offender, 3972–3977. 3994–4000. 4026–4029. 4035–4040——It was stated on the trial in this case that it was a common practice to adulterate oatmeal, 3976. 4087——The indictment for the adulteration of the oatmeal was of necessity laid at common law, 3977. 3994–3997.

General belief in Glasgow that adulteration is practised wherever it is possible, 3978–3980. 3991. 4041, 4042. 4046–4049. 4078–4091——Expediency of special legislation in order to check a practice so prevalent and so injurious, 3981–3996. 4041–4045. 4048–4050——Inability of the poorer classes to protect themselves, 3984. 4048. 4076, 4077 ——Advantage if the officers of Excise in Scotland had power to inspect mills, 3990. 4033.

Extent to which witness of his own knowledge can speak to the practice of adulteration, 4001 *et seq.*——Instance of adulteration in drugs supplied to the Town's Hospital, Glasgow, 4002–4006——Grounds for the belief that oatmeal is extensively adulterated, 4009–4014——Adulteration of butter with foreign ingredients, 4015–4023——How the question of adulteration of oatmeal might be defined, 4030–4034——Effect of competition in trade in leading to adulteration, 4046.

Statement in proof of the adulteration of tea in Glasgow, 4048. 4059–4075——General feeling of the people of Glasgow that legislative interference is necessary, 4049, 4050. 4078–4088——Instance of conviction by the Excise for adulteration of tobacco, 4050, 4051——Inexpediency of the present limit to the power of Excise in regard to prosecutions for adulteration, 4052——Summary power of the Excise in regard to tobacco, 4053–4055——Belief nevertheless that tobacco is extensively adulterated, 4056–4058——Witness constantly receives complaints from correspondents as to the practice of adulteration, 4089–4091.

Magistrates. The local magistrates should have power to refer articles to a central body in London, *Goodman* 3945, 3946. 3953–3957——Magistrates should have summary jurisdiction to fine and imprison if adulteration be proved, *Postgate* 4238; *Rep. p.* vii, viii ——If

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——If thought proper, evidence besides that of the public analyst or inspector should be required by the magistrate, *Postgate* 4238–4256. 4300.

Manchester. Extensive deterioration of wheat flour in Manchester by an admixture of rice or maize, *Calvert* 2081——Extensive adulteration in the case of samples of drugs procured by witness from twelve shops, *ib.* 2134–2138.

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Mary's, St., Hospital, Paddington. Supply at first to the hospital of samples of drugs, many of which were inferior in quality, *Blyth* 664–666——Sundry instances of adulteration in the samples supplied, *ib.* 667 *et seq.*——The vendors, in sending impure samples of drugs, were not aware that they would undergo examination, *ib.* 689——Great improvement in the drugs supplied to the hospital when it became known that there was a chemical analysis; some of the vendors sending adulterated samples no longer competed for the supply, *ib.* 708–711.

Meat. Evidence as to the constant sale of diseased and unhealthy meat to the poorer classes in London, *Challice* 1446–1466——Inadequacy of the present law for preventing the sale of bad meat, *Challice* 1460–1464; *Richardson* 2182. 2190–2191——Diseases produced by the consumption of bad meat, *ib.* 2174. 2191, 2192. 2196——There should be power to search for and seize diseased meat wherever it can be found, as well as in slaughter-houses, *ib.* 2184–2186——The power of dealing with diseased meat should be so extended as not to be dependent merely upon local Acts, *ib.* 2187, 2188.

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Medicines. See *Drugs.*

Metropolis Local Management Bill. Opportunity under this Bill to empower vestries, through means of their inspectors of nuisances and sanitary officers, to detect adulteration, *Challice* 1505, 1506. 1511–1513.

Microscope, The. Ascertainment of the structure of articles by means of the microscope, *Quekett* 393–395. 409, 410. 424. 429——Fallacy of relying upon the microscope as a means of judging of adulteration, *Drew* 2967.

Explanation relative to certain diagrams prepared for the purpose of illustrating the successful application of the microscope to the discovery of adulteration, *Hassall* 4388, 4389——Almost all vegetable substances, even when reduced to powder, can be distinguished by means of the microscope, *ib.* 4388, 4389——Witness could, of himself, easily make 100 microscopical examinations in a week, *ib.* 4414, 1415——With proper assistance, he could make from 200 to 300 examinations weekly, *ib.* 4416–4419.

Separate analyses were not required by witness, when using the microscope, in order to discover the presence of separate bodies in any article, *Hassall* 4463–4466. 4504–4506——Quantitative as well as qualitative analysis by means of the miscroscope, *ib.* 4504–4506. 4508, 4509. 4647, 4648.

Facility for detection through means of the microscope, adverted to by the Committee, *Rep. p.* viii.

Milk. Witness has not found any adulteration, except that of water, in milk, *Taylor* 82, 83——Witness examined milk five or six years ago, when he found in it an admixture of calves' brains; in recent examinations the only extraneous matter found has been water, *Quekett* 395–403. 429–431——Dilution of samples of milk with water; one sample only, as examined by witness, contained chalk, *Blyth* 712–714——Different prices and qualities of milk, the difference being the result of using chalk and water for adulteration; instance of this in the case of milk supplied by contract to the Bermondsey Board of Guardians, in which there was a great sediment, most probably chalk, *Challice* 1482–1497.

Extensive adulteration of milk with a decoction of white carrots, *Gay* 1700–1705——Adulteration of milk with water, but not with chalk, &c.; test of the lactometer adverted to hereon, *Neligan* 1854–1858——Injury to health in the nutritive property of milk being lowered by water, *ib.* 1862–1866——Parties mixing water with milk should be fined, *ib.* 1864. 1866.

Milk of Sulphur. Considerable adulteration therein twenty years ago, but not at the present time, *Bell* 2319, 2320——Circumstance of milk of sulphur (so called) being retailed at 28*s.* per cwt., whereas pure milk of sulphur is worth 75*s.* per cwt., *Postgate* 4228. 4238.

Mixed Articles. No mixed articles should be sold unless as mixtures, the proportion of each ingredient being moreover made known to the purchaser by means of a label or otherwise, *Taylor* 88. 91. 190. 209; *Hassall* 4510. 4522, 4523. 4655–4663. 4669——The mixture of good and bad tea, or of different qualities of the same article, should be treated as a fraud, *Postgate* 4319–4323——Facility of a specification in regard to the mixture of chicory and coffee, as well as of all compound articles, *Hassall* 4434–4436.

See also *Coffee.*

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Moffatt, George (Member of the Committee). (Analysis of his Evidence.)—Delivers in a return, dated Inland Revenue Office, 1 May 1856, of the number of excise licences issued within the bills of mortality, in the year 1855, classed in trades, 4387.

Moffatt, Mr. Draft Report proposed by Mr. Moffatt, *Rep. p.* xix xxv——The same, negatived by the Committee, *ib. p.* xxv.

Morality. Lax morality in trade produced by the practice of adulteration, *Carpenter* 2472, 2473; *Woodin* 2759; *Rep. p.* iii.

Musk. Musk is adulterated both at home and abroad; at home with mahogany dust, *Bastick* 855–857.

Mustard. General and extensive adulteration of mustard with flour and turmeric, so that as a medical appliance it is constantly quite ineffective, *Challice* 1470–1472——Advantage of the mustard husks for medical purposes, *ib.* 1472.

Witness is superintendent of the Government mustard manufactory at Deptford, which was erected about eighteen months ago, in consequence of the great difficulty of obtaining pure mustard, *Gay* 1598, 1599. 1601–1603. 1622——The difficulty of procuring pure mustard arises from the fact of its turning black after it has been some hours mixed, *ib.* 1604, 1605. 1660, 1661——The adulteration is practised more on account of the price than for the sake of improving the colour, *ib.* 1605—— Use invariably of turmeric for colouring mustard, the other main adulteration being wheat flour; other substances used, *ib.* 1607–1613.

Character and extent of the adulteration practised by witness when in trade formerly as a mustard manufacturer, *Gay* 1610–1612——Large quantity of gypsum and other ingredients found by witness in mustard supplied to Government, *ib.* 1613–1621. 1629–1631——Purity of the mustard now supplied to the royal navy, *ib.* 1624, 1625——Facility for detecting turmeric in mustard by means of ammonia; illustration of this, *ib.* 1625–1628. 1631.

Wholesomeness of good mustard, *Gay* 1633—— Circumstance of there being as much essential oil in the refuse of the mustard as in the mustard flour, *ib.* 1633–1638——Fraud in mixing charlock seed with mustard; this cannot be detected, *ib.* 1643. 1645, 1646—— Mustard, vinegar, and pepper are adulterated as much as any other articles, *ib.* 1695.

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Names of Articles. Propriety of its being compulsory to sell all articles by their proper names, *Taylor* 211, 212; *Wakley* 2278–2281; *Postgate* 4238–4242.

Neligan, John Moore, M. D. (Analysis of his Evidence.)—Physician in Dublin, 1716, 1717——Has written a work on the subject of medicines and adulterations, 1718—— Greater purity of drugs in Ireland than in England on account of the power of inspection in the Dublin College of Physicians, 1719–1721——Practice of the College of Physicians in carrying out the inspection, 1721–1724. 1727–1733——It is contemplated to publish the result of the inspection, 1721. 1776, 1777——System of classification of shops under the inspection, 1724–1726—— Hitherto there has not been any penalty for adulteration, not even publicity; power to burn adulterated drugs adverted to, 1728–1733. 1774–1777.

Some of the impure drugs in Dublin are imported impure from England, 1733, 1734——Difference between the pharmacopœias of the two countries, 1734–1739——Considerable adulteration of scammony, both before and after importation, 1740–1746——Inducement to adulteration in the practice of workhouses and dispensaries to contract for drugs at very low prices, 1746–1749——Beneficial operation of the Dublin Apothecaries' Hall, where medicines are always sold in a pure state, 1749–1752. 1760–1764.

Advantage of the examination and licence necessary before any one can open an apothecary's shop in Ireland, 1753–1757—— Distinction in Ireland between apothecaries and chemists, 1758, 1759——System of licensing in France adverted to, 1765–1767—— Advantage if chemists in England were obliged to be licensed, 1768, 1769——A system of licence and inspection might be desirable in the case of drug-grinders and wholesale druggists, 1769–1773.

Slight security to the consumer by an examination of drugs in bond, 1778. 1788. 1807, 1808—— Facility with which wholesale druggists can guard against impure drugs, 1779. 1791, 1792——Inexpediency of prohibiting the importation of impure opium, &c., 1779–1787. 1814, 1815—— Reason for the check in America upon the importation of drugs; inadequacy of the check, 1789, 1790. 1808–1813——Insufficiency of the means and powers of the Dublin College of Physicians for detecting and checking adulterations throughout Ireland generally, 1793–1796. 1818, 1819——Instance of death at Newry occasioned through the ignorance of an apothecary's apprentice, 1794. 1803.

Suggestions recently made by witness, and about to be enforced in Ireland, for distinguishing dangerous from harmless medicines, and external from internal applications, by keeping them in differently shaped bottles, 1797–1801——Preventive measures and penalties

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penalties recommended in order to check the sale of adulterated articles by the retail druggists throughout the country, as well as in the metropolis, 1804, 1805. 1816–1828. 1872——Words of the Act by which the Dublin College of Physicians are empowered to inspect and examine, 1805, 1806.

Belief that there is not in Dublin any general adulteration of food prejudicial to health, 1829. 1848, 1849. 1859–1861——Facility for obtaining good bread in Dublin, though adulteration is sometimes resorted to, 1829–1839——Crystals of alum could not exist in bread on account of the heat in the process of baking, 1832–1834——Weekly inspection of meat in the Dublin markets by the corporation under local Act, 1841–1847.

Witness has found copper in pickles, but not to an extent at all injurious to health, 1848. 1851–1853——Belief that in Dublin drugs are more adulterated than anything else, 1850——Adulteration of milk with water, but never with chalk, &c.; test of the lactometer adverted to hereon; 1854–1858——Injury to health in the nutritive property of milk being lowered by water, 1862–1866——Parties mixing water with milk should be fined, 1864–1866.

Less use of quack medicines in Ireland than in England, 1868——Check in Paris upon the sale of what are termed secret medicines, 1869——Advantage if quack medicines in this country were prohibited altogether, 1870. 1877, 1878——Medical men in Dublin are frequently disappointed in the effect produced by their prescriptions, through the inferiority of the medicines, 1871. 1875——Patients are sometimes recommended by their physicians to have their prescriptions made up at particular shops; reason why such recommendation is not the general practice, 1873–1876.

Newry, Ireland. Instance of a death at Newry occasioned through the ignorance of an apothecary's apprentice in vending medicines, *Neligan* 1794. 1803.

Newton Heath, Manchester. Considerable extent to which the practice of slaughtering diseased animals is carried by some butchers at Newton Heath; the meat, which is most unwholesome, is sold to the public in various forms; *Richardson* 2153–2166. 2172–2174——There used to be seven slaughterhouses for diseased meat, but now there are only three, *ib.* 2154. 2166——Witness has two sub-inspectors, practical butchers, to accompany him in his visits of inspection to the slaughterhouses, on whose opinion he relies in seizing and condemning bad meat, *ib.* 2157, 2158. 2163. 2170, 2171——There are at present about twelve diseased cows and twenty-four diseased calves killed weekly, *ib.* 2159.

Heavy penalties inflicted under the Local Act in the event of convictions for selling bad meat, *Richardson* 2176. 2193–2195——The lower classes still buy diseased meat, notwithstanding the convictions, their poverty probably compelling them to do so, *ib.* 2177–2181.

New York, State of. Articles specially prohibited from adulteration, the penalty being by fine or imprisonment, *Rep. p.* vi, vii.

Nitrate of Soda. Extensive adulteration detected therein by witness, *Bingley* 4094.

Nitre, Sweet Spirits of. Extensive and injurious adulteration in the case of three out of five samples of sweet spirits of nitre tested by witness for the Paddington Hospital, *Blyth* 680–684——Adulteration of sweet spirits of nitre with alcohol and water; it may easily be detected, *Bastick* 857–859.

Nomenclature of Medicines. Advantage of simplifying the nomenclature in regard to medicines, and of labelling all goods in English instead of in Latin, *Drew* 3184–3189——Adoption in Germany of a Latin nomenclature of drugs, except as regards the physician's directions accompanying the prescription, which directions are in German, *Richter* 3839–3841——Question as to the propriety of an English nomenclature, *ib.* 3841, 3842.

Normandy, Dr. Particulars as to witness having sent two loaves of bread to Dr. Normandy for analysis, one of which contained alum, and one was free from it, and as to Dr. Normandy having reported as the result of his examination, that both loaves were without alum, *Robertson* 3605–3624——Improbability of the miller having already mixed alum with the flour of which these loaves were made, *ib.* 3621–3623.

Extract from a letter from Dr. Normandy to the chairman of the Committee, containing certain explanations with respect to the foregoing statement, (Q. 4579).

Nuisances Removal Act. The power under the Nuisances Removal Act in regard to the seizure of flour may be so exercised as to be most unjust and oppressive, *Jackson* 3673–3678. 3724. 3742. 3772, 3773——Inexpediency of the system under the Nuisances Removal Act, whereby one person inspects meat flour, drainage, &c., with all of which things he cannot be conversant, *ib.* 3730–3740; *Bingley* 4205–4208.

Nutmegs. Inaccuracy of evidence before the Committee in 1855 as to the sale invariably of wild nutmegs for cultivated nutmegs, *Abbias* 301–304.

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Oatmeal. Frequent adulteration at Leeds of oatmeal, with the "sharps" taken out of flour, *Emerson* 1066, 1067——Oatmeal as supplied to poor law unions, and generally, has been invariably found to consist of a large proportion of rice and maize, whereby its nutritive quality is much reduced, *Calvert* 2108-2110.

Particulars relative to the adulteration in 1847 of a large quantity of oatmeal, provided to meet the destitution in the Highlands; part taken by witness in the matter, which led to the imprisonment of the offender, *Mackenzie* 3972-3977. 3994-4000. 4026-4029. 4035-4040——The convicted party, by name Bannatyne, was adjudged to be imprisoned for three months, and to pay a fine of 300 *l.*; *ib.* 3973——Nature of the adulteration, *ib.* 3974-3976. 4035-4038.

It was stated on the trial in this case, that it was a common practice to adulterate oatmeal, *Mackenzie* 3976. 4087——Through some means Bannatyne was liberated before the expiration of his sentence, and the fine was not exacted; ill effects thereof, *ib.* 3998-4000. 4026-4029——The indictment for the adulteration was of necessity laid at common law, *ib.* 3977. 3994-3997.

Grounds for the belief that oatmeal generally is extensively adulterated, *Mackenzie* 4009-4014——How the question of adulteration of oatmeal might be defined, *ib.* 4030-4034.

Objects of Adulteration. Enumeration of the objects for which adulterating agents are used, *Postgate* 4215.

Opium. Naturally inferior quality of the great mass of opium samples sent to St. Mary's Hospital, Paddington; the adulteration generally takes place abroad, *Blyth* 700-707——Exceptional instances of opium being purposely adulterated in this country, *Bastick* 845, 846——Facility for procuring genuine opium by paying properly for it, *Bell* 2332——Skill required to judge of the purity of opium, *ib.*

Statement to the effect that opium is imported in a much purer state than has been alleged, *Drew* 3047-3050. 3054-3056. 3067-3070——Inferior character lately of Egyptian opium, *ib.* 3051——East India opium is very pure, but it is not imported into England, *ib.* 3052, 3053.

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Order in Council. An order in council prohibiting injurious and fraudulent adulterations should at once be passed, *Postgate* 4238.

Origin of Inquiry. Circumstances which led witness to attend certain public meeting throughout the country; he is well known as having paid much attention to the question of adulteration, and may be said to have originated the present inquiry, *Postgat* 4224-4227.

Oxide of Lead. See *Colouring Substances.* *Hair-dyes.*

Oxide of Zinc. Considerable adulteration in this substance in former years, *Bell* 2319.

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Paris. Less adulteration of food in Paris than in London, *Lewis* 367——Check in Paris upon the sale of what are termed secret medicines, *Neligan* 1869——Objection to the system in Paris for preventing adulterations, *Wakley* 2302, 2303.

Patent Medicines. Consideration of means for checking the large sale of patent medicines; suggestion that the stamp duty be doubled, *Drew* 3169-3179. 3191-3196.

Injurious effect of these medicines upon the public health, *Rep. p.* ix——The stamp duty should if possible be abandoned, as it only encourages the sale, *ib.*

Penalties. Difficulty in a system of penalties on account of the conflicting opinions of chemists as to the properties of the substances, *Taylor* 206, 207. 223——System of penalties under the French law, *Lewis* 350——Approval of the infliction of penalties by the central Board, rather than of its being left to the public to proceed on evidence supplied by the Board, *ib.* 377-380——Objection to the infliction of heavy penalties, *Wakley* 2218, 2219. 2304, 2305——Disapproval of fine and imprisonment for the adulteration of drugs, *Atkinson* 2889——System of punishment recommended by the Committee, *Rep. p.* vii-ix.

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Pepper. Adulteration detected by witness in pepper, *Thompson* 622-626; *Bingley* 4106, 4107——Use of late years of bone or ivory dust for adulterating white pepper, *Gay* 1689.

Pepper Dust. Reference to pepper dust as a well-known adulterating article; how manufactured, *Gay* 1693, 1694.

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Pharmaceutical Society. Improvement in the drug trade through the operations of the society, *Bastick* 932, 933; *Wakley* 2308-2310; *Bell* 2317-2321; *Richter* 3784, 3785 *Rep. p.* ix——The society was established in 1841 for the better education of chemists as a check upon adulteration, and other abuses, *Bell* 2315, 2316. 2318——Remarks made by witness at a meeting of the society in December 1841, relative to the existence of adulteration in drugs, and the means of remedying the same, *ib.* 2316, 2317——The society will gladly assist in the promotion of the objects for which the present Committee has been appointed, *ib.* 2406, 2407.

The establishment of the Pharmaceutical Society has given rise to a salutary spirit of inquiry in regard to drugs, but has not tended to prevent adulteration, *Drew* 2967-2970. 2974-2978.

Pharmacopœias. Difference between the pharmacopœias of England and Ireland, *Neligan* 1734-1739——Suggestion that in lieu of the three pharmacopœias of London, Dublin, and Edinburgh, there should be but one pharmacopœia applicable to the three countries, *Richter* 3795-3801——Different pharmacopœias on the Continent adverted to, *ib.* 3802, 3803. 3807.

The Committee refer to the evident evils of different pharmacopœias, and recommend the matter to the immediate consideration of the medical authorities of England, Ireland, and Scotland, *Rep. p.* ix, x.

Phillips, the late Richard. Improvement in the quality of retailed drugs through the publication in the "Pharmaceutical Journal," in 1842 and 1843, of articles written by the late Mr. Richard Phillips, *Bell* 2319, 2320.

Pickles. Simple means of testing the composition of pickles, *Thompson* 607——Witness has found copper in pickles, but never to an extent injurious to health, *Neligan* 1848. 1851-1853——In pickles, as in other things, the adulteration is frequently practised in ignorance of its being injurious, *Carpenter* 2420.——*See* also *Copper.*

Poisons. See *Sale of Poisons. Secret Poisonings.*

Pontefract. Reference to a conviction before the borough magistrates at Pontefract, in the case of flour adulterated by a miller, *Jackson* 3769-3771.

Poor Law Medical Officers. Objection to poor law medical officers as local analysts for detecting adulterations, *Taylor* 226.

Poor Law Unions. Nature of the adulteration of wheat flour supplied to six of the poor law unions in Lancashire; it went from a pure article up to seventy-four per cent. of adulteration, *Calvert* 2078, 2079. 2084, 2085. 2094——Instances of the supply of unsound flour to unions, to the great injury of health, *ib.* 2079. 2084, 2085——Impossibility of workhouse authorities detecting the presence of adulteration from the appearance; an officer is wanted for the purpose, *ib.* 2084. 2115-2119——Undue amount of water in bread supplied to the Lancashire Unions, *ib.* 2094, 2095——The milk supplied to five or six unions in Lancashire contained from ten to fifteen per cent. of water; there was no other adulteration in it, *ib.* 2107, 2108.

Expediency of correcting the present supplies to workhouses, the lowest tender being generally accepted, without any proper inquiry into the proper quality of the articles; suggestions hereon, *Calvert* 2112-2119. 2127-2133——Undue proportion of salt and water in the butter supplied to Lancashire workhouses, *ib.* 2119-2122——Out of 289 analyses made by witness for workhouses, there were 138 instances of adulteration or bad quality, *ib.* 2124——In some instances the workhouse contracts were accepted at prices which did not admit of a genuine supply, *ib.* 2125-2128——Calculation showing a loss of 2,271 *l.* to a union on a supply of 14,629 *l.*, *ib.* 2128-2133.

Statement relative to some drugs supplied at extremely low prices to the Sheffield Poor Law Union, which drugs were found to be extensively adulterated, *Bingley* 4172-4193. 4214——Poor-law medical officers have no interest in regard to the supply of drugs to the union, 4192, 4193.

Poorer Classes. Perceptive faculties of the lower classes adverted to, as showing that, in the case of bread, beer, &c., taste is a great protection against adulteration, *Thompson* 533-539—— Difficulties in the way of operatives proceeding against shopkeepers or manufacturers for adulteration, *Emerson* 1184-1197; *Farrant* 1325-1331——Liability especially, of the poorer classes to the evil of adulteration, *Challice* 1468, 1469. 1547, 1548; *Carpenter* 2519; *Atkinson* 2895, *Rep. p.* iv——Reluctance or inability of the poor to take steps against shopkeepers for adulteration, *Challice* 1507-1510; *Wakley* 2236-2238; *Bell* 2410-2416; *Mackenzie* 3894. 4048. 4076, 4077, *Rep. p.* iv——The poorer classes should have increased facilities for bringing offenders to justice, *Carpenter* 2510-2512——High prices paid by the poor as compared with the quality of the articles, *Postgate* 4262-4264, 4320——Inability of the poor man to enter into the question of adulteration of beer, or to avoid being defrauded by the practice, *Hassall* 4556-4559.

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Postgate, John. (Analysis of his Evidence.)—Enumeration of the objects for which agents are used to adulterate, 4215——Instances of adulteration in sundry towns in which witness has attended meetings for the purpose of inquiring into the practice; about two-thirds of the articles were found to be adulterated, 4215-4223. 4228-4237——Statement showing that witness may be said to have originated the present inquiry, 4224-4227.

Circumstance of milk of sulphur, so called, being retailed at 28*s.* per cwt., whereas pure milk of sulphur is worth 75*s.* per cwt., 4228. 4328—— Witness recently found 13 grains of alum in half a pound of bread, 4228——Alum in bread is exceedingly injurious; proof of this, 4228-4231——Adulteration of butter, as imported from Ostend, with flour and water, 4231-4237.

Suggestions in detail for the adoption of remedial measures, 4238 *et seq.*——An Order in Council prohibiting injurious and fraudulent adulterations should at once be passed, 4238——A special Act should subsequently be passed, declaring pernicious adulterations illegal, and holding the sellers responsible, 4238. 4258——The Board of Health or some other central body should issue instructions from time to time as to what constitutes adulteration, 4238. 4248-4252. 4266. 4274, 4331-4342. 4386——Analysts should be appointed by Boards of Guardians or other local authorities, subject to the approval of the central Board, 4238. 4265-4275. 4348, 4349.

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The magistrates should have summary jurisdiction to fine and imprison, 4238——If thought proper, evidence besides that of the analyst should be required by the magistrate, 4238. 4256. 4300——Suggested system of registration of tradesmen in connexion with a system of publication of names, so that the public might distinguish between honest and dishonest traders, 4238. 4243-4247. 4291——Pernicious adulteration should be declared a criminal offence, 4238.

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Facility with which adulterations generally might be detected by a competent analyst, 4278-4289. 4301, 4302——The analyst should report the result of his analysis to the magistrate, and should initiate the legal proceedings, 4290-4294——Lists of those who adulterate should only be published after conviction, 4291. 4298——The principle of the Bread Act should be adopted generally, inspectors being appointed to enforce it, 4294-4297. 4343-4346——Inoperativeness of the law relative to adulterated bread on account of its being nobody's business to prosecute, 4295-4297. 4344, 4345.

The fees paid for private analyses, and the fines for adulteration, might go towards the inspectors' salaries, 4303. 4309, 4310——The inspectors should have fixed salaries of about 500*l.* a year, 4307, 4308——Propriety of concluding that the retailer should be conversant generally with the quality of the articles obtained by him from the wholesale dealer, 4311-4317——Extensive adulteration of cream of tartar adverted to, 4323-4328.

Responsibility desirable in the retailer of drugs, 4350-4353. 4381-4386——There might be an inspection of drugs as imported, though it would not be expedient to reject all which were not pure, 4350. 4355-4357. 4368-4380——Advantage if the quality and strength of drugs and chemicals as sold to the public were fixed by regulation as in America, 4350. 4373-4386——Improvement if all chemists were licensed, 4351—— There should be a public inspection of drugs as of food, 4352-4354——Advantage if a small duty were levied on certain imported articles, such as scammony, chicory, &c., 4356-4370.

Powdered Medicines. Extensive adulteration practised in the case of compound powders, *Bastick* 863-869——The adulteration is conventional as regards the manufacturer and the retailer, but is a fraud upon the public, and destroys the efficacy of medical prescriptions, *ib.* 865, 866. 870-874.

It is not the practice of witness's firm to keep or to manufacture what are termed compound powders, and he believes the sale of such powders by wholesale druggists is of rare occurrence, *Baiss* 997-1018——Desuetude long since of the practice of some druggists to mix lignum vitæ with some powders, *Drew* 2987-2992——Compound powders have never been made by witness's firm, *Allen* 3874.

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Less perfect admixture of adulterating agents in the case of solid substances than of powders, *Hassall* 4647.

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Prescriptions. Patients are sometimes recommended by their physicians to have their prescriptions made up at particular shops; reason why such recommendation is not the general practice, *Neligan* 1873–1876——As regards the mode of making up prescriptions, medical men are doubtless generally in the hands of the chemists, *Drew* 3097.

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Preserved Fruits. Danger in keeping preserved fruits in pewter-stopped bottles, *Taylor* 28.

Press, The. Beneficial operation of the press as a means of exposing the impurity of drugs, &c., *Richter* 3785, 3786.——*See* also "*Lancet.*" *The.*

Prevalence of Adulteration. Witness demurs to the evidence given before the Committee in 1855, as to the extent of adulteration of tea, sugar, &c., *Abbiss* 250——Concurrence in the evidence of Dr. Hassall and Dr. Normanby as regards the extent of adulteration, *Bastick* 913-916——Prevalence of adulteration over the whole of the metropolis, *Challice* 1513–1516——Instances of adulterations being now practised which some years ago were not known, *Gay* 1688–1692——Belief that seven out of every ten articles are adulterated, *ib.* 1707.

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There is not one-twentieth part of the adulteration now prevailing that did prevail some four or five years ago, *Hassall* 4452——In ninety-nine cases out of one hundred, witness testified in his evidence in 1855 as to the existence of adulteration, through his own personal knowledge, and not on the statements of others; examination hereon, *ib.* 4469–4475. 4603. 4607–4620——Varying extent of the adulteration in those cases mentioned by witness where the amount was not specified, *ib.* 4604-4606.

The Committee cannot avoid the conclusion that adulteration widely prevails, though under circumstances of very various character, *Rep. p.* iii, iv.

Preventive Measures. Suggestion that there be a power to visit shops, &c., and take samples of articles for analysis; that there be a right of seizure of all noxious articles, and a fine if improperly used, *Taylor* 188. 209. 235, 236——Approval of legislative interference for the prevention of injurious adulterations; it must, however, be exercised with the greatest caution, and any tradesman prosecuted wrongfully should recover his expenses in the matter, *Thompson* 609–614. 638–658.

Expediency of legislative interference generally further insisted on, *Blyth* 801. 810, 811; *Bastick* 881. 918; *Bell* 2410–2416; *Carpenter* 2501–2509; *Mackenzie* 3986-3991. 4041–4045. 4048–4050——There is at present no protection to the public against adulteration, *Gay* 1715——Inoperativeness of certain laws now in force for checking adulteration, *ib.* 2233–2239——The purchaser rather than the seller should be protected by the law, *ib.* 2297, 2298——Expediency of dealing with adulteration in the germ, and of checking the power and the inducement to defraud, *Richter* 3783. 3789. 3831–3833——Corrective measures should be fully carried out, *ib.* 3789. 3794.

Metropolitan Act and general Act, at the present time, for punishing adulteration of flour and bread, *Goodman* 3909–3913. 3925–3940. 3950–3952——Penalties in the case of adulteration of ale, beer, porter, cyder, and perry, *ib.* 3914–3917——There should be a general Act upon the principle of the Metropolitan Bread Act, power being given to inspectors to prosecute, *Goodman* 3947–3952; *Postgate* 4294–4297. 4343–4346——Suggestion in detail for the adoption of remedial measures, *Postgate* 4238 *et seq.*——A special Act should forthwith be passed, declaring pernicious adulterations illegal, and holding the sellers responsible, *ib.* 4238. 4258——Probable facility in obtaining competent local officers to carry out preventive measures, *Hassall* 4441–4443.

Conclusions of the Committee as to the necessity of preventive measures, *Rep. p.* iv, v——Legislation in foreign countries considered, *ib. p.* v–vii——Suggestions in detail as to the measures expedient for this country, *ib. p.* vii–x——Extent to which the law now affords redress, *ib.* vii.

See also *Act 6 & 7 Will. 4, c. 37.* *Ad Valorem Duties.* *Analysts.* *Bread,* III. *Central Board.* *Coffee,* 5. *Drugs,* 7, 8. *Fines.* *Flour,* 2. *France.* *Inland Revenue Department.* *Licensed Traders.* *Local Boards.* *London.* *Magistrates.* *Metropolis Local Management Bill.* *Order in Council.* *Penalties.* *Publicity.* *Registration of Tradesmen.* *Retail Traders.* *Spain.* *Stamp Duty.* *Tea,* VI.

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Prices. Cessation of adulteration in any drug, if the demand cease for the impure article, *Bell* 2321. 2326——The demand for cheap medicines is a primary cause of adulteration, *ib.* 2396, 2397——Where the adulteration produces a corresponding reduction in price and is not injurious to health, the law should not interfere, *Rep. p* iv.

See also *Competition.*

Private Analyses. In some cases analyses might be made for private parties by the proposed public analysts, on the payment of a fee; traders might avail themselves of this arrangement, *Postgate* 4238. 4255. 4258. 4269. 4303. 4311–4314. 4386; *Rep. p.* ix.

Proceedings of the Committee, Rep. p. xi *et seq.*

Prosecutions. In the case of local prosecutions, the funds should be provided locally, *Wakley* 2296——Apathy of the public in regard to undertaking prosecutions under the Bread Act, *Carpenter* 2442–2446; *Rodgers* 3268–3271. 3275, 3276; *Postgate* 4295–4297. 4344. 4345; *Hassall* 4455, 4456——As a general principle, the adulteration of food, as affecting an individual, and not a public body, is not an indictable offence, *Goodman* 3925-3928. 3938. 3941, 3942. 3958–3969——The rich, as well as the poor, are unwilling to prosecute, *ib.* 3965–3968——The proposed analyst or inspector should report the result of his analyses to the magistrate, and should initiate the legal proceedings, *Postgate* 4290–4294.——*See* also *Central Board.*

Prussia. All persons selling articles of food or drink which they know to possess properties injurious to health are subject to fine or bodily punishment, *Rep. p.* vi——Drugs can only be dispensed by apothecaries legally appointed, *ib.*

Public, The. See *Health. Poorer Classes. Preventive Measures.*

Publicity. Less adulteration in consequence of the present inquiry, previously to which the practice was on the increase, *Taylor* 228. 231——Main importance of publicity as a check upon adulteration; suggestions hereon, *Taylor* 229; *Wakley* 2209–2216. 2218, 2219. 2257; *Bell* 2385, 2386; *Postgate* 4291. 4298; *Hassall* 4447–4452; *Rep. p.* viii——Publicity desirable when articles are found to be free from adulteration, *Wakley* 2214——Doubt as to any good result being produced by the publicity of the Committee, *Bell* 2408, 2409.

Instance of the successful effect of the principle of publicity, *Carpenter* 2454–2456——Increase of adulteration of late years, through the publicity given by publications on the subject several years ago, *ib.* 2517, 2518——In cases of conviction, a notice of the conviction should be placed in the shop-window of the offending party, *Rodgers* 3274; *Hassall* 4438——There should be power to publish the names of the offenders, *Rep. p.* viii.

See also "*Lancet,*" *The. Press, The. Registration of Tradesmen.*

Pyroligneous Acid. Doubt as to the advantage of substituting pyroligneous acid for vinegar, *Taylor* 177, 178.

Q.

Quack Medicines. Great demand for secret or quack medicines; they do an immense deal of mischief, and should be rendered illegal, *Taylor* 182–187; *Neligan* 1870. 1877, 1878; *Bell* 2396–2404——Less use of quack medicines in Ireland than in England, *Neligan* 1868——Disapproval of the tax now levied on quack medicines, as tending to encourage their sale, *Bell* 2400–2402——Injurious effect of patent or quack medicines upon the public health, *Drew* 3166–3168. 3180–3183. 3191.

Quassia. See *Beer,* 1.

Quekett, Professor John Thomas. (Analysis of his Evidence.)—Professor in the Royal College of Surgeons, 392——Has examined several articles microscopically, more particularly with a view to their structure, 393–395. 409, 410. 424. 429——Examined milk five or six years ago, when he found in it an admixture of calves' brains; in recent examinations the only extraneous matter has been water, 395–403. 429–431——Has found chicory and beans in coffee; until lately indeed chicory was almost always to be found in cheap coffee, 404–409.

Grocers and others have sought witness's opinion relative to statements in the "Lancet," which statements he has confirmed, as to the articles in question being adulterated, 409. 417–419. 432, 433——By microscopic examination, witness has found potato starch and bean starch in bread, but cannot detect alum by such examination, 411–416——Belief as to porter being sometimes adulterated with a mineral substance, 420–424——Cream, like milk, is not adulterated save with water, 425, 426.

Quinine. Witness has found chalk and starch in quinine, *Bingley* 4096.

R.

Red Lead. Injurious quantity of red lead detected by witness in curry powder and cayenne pepper, *Hassall* 4527-4533.

Red Precipitate. Extensive and injurious adulteration of this article, *Bastick* 859-862.

Registration of Tradesmen. Suggested system of registration in connexion with a system of publication of names, so that the public might distinguish between honest and dishonest traders, *Postgate* 4238. 4243-4247. 4291.

Retail Traders. Sale by many chemists of adulterated articles unwittingly, *Bastick* 877-880——If the retail dealer selling adulterated drugs gave up the name of the wholesale dealer who supplied him, he should be exonerated, *Wakley* 2294, 2295——The retail seller of drugs, &c. is mainly to be checked, *Richter* 3792. 3794; *Postgate* 4350. 4353. 4381-4386——Propriety of concluding that the retailer should be conversant generally with the quality of the articles obtained by him from the wholesale dealer, *Postgate* 4311-4317——Course advisable in the event of goods adulterated by the wholesale dealer being sold unknowingly to the retailer, *Hassall* 4670-4672. 4679.

RHUBARB:

1. *Cultivation of Medicinal Rhubarb in England.*
2. *Quality and Price respectively of the Home and Foreign Article.*
3. *Sale of English Rhubarb as such, or in substitution for Foreign Rhubarb.*
4. *Adulteration of Powdered Rhubarb.*

1. *Cultivation of Medical Rhubarb in England:*

Large cultivation of rhubarb in this country, on the recommendation, probably, of Dr. Pereira that it might be substituted for Turkey rhubarb, *Blyth* 720-728.

Witness is a grower of English rhubarb at Boddicott, near Banbury, *Usher* 1568, 1569——English rhubarb was first grown in 1789, when it was introduced by Mr. Hayward of Banbury, *ib.* 1570——It has been extensively used as a medicine since 1811, when the plants were bought by witness's father, *ib.* 1571, 1572——The culture is rather expensive, *ib.* 1573——It is a different article from the ordinary garden rhubarb, *ib.* 1574-1576.

There is but one other grower, also near Banbury, besides witness, *Usher* 1594——The soil near Banbury is particularly well suited for the cultivation, *ib.* 1595——The plants are similar to those originally introduced in 1789, *ib.* 1596.

2. *Quality and Price respectively of the Home and Foreign Article:*

In proof that English rhubarb is a valuable medicament, and that it is not much inferior to foreign rhubarb, witness adduces the testimony of the late Dr. Pereira, of Mr. Tustin, dispenser at the London Hospital, of Professor Redwood, and of Dr. Thompson, as contained in his "London Dispensatory" of 1837, *Usher* 1577-1580. 1587-1590——Exclusive and successful use of English rhubarb in the London Hospital for the last thirteen years, *ib.* 1577, 1578. 1591, 1592——Relative prices of English and foreign rhubarb; inaccuracy of statements hereon by Mr. Warington and Mr. Herring, *ib.* 1581-1584——Importation of inferior foreign rhubarb in 1846, adverted to, *ib.* 1584-1586.

High price of Russia rhubarb as compared with English rhubarb, *Bell* 2336-2339; *Drew* 3006, 3007——Different qualities and different prices of rhubarb; there is no need of adulteration, *Atkinson* 2894-2899——English rhubarb by no means possesses the good properties attributed to it by Dr. Pereira, and the other authorities at the London Hospital, *Drew* 3014, 3015. 3017. 3024, 3025.

3. *Sale of English Rhubarb as such, or in substitution for Foreign Rhubarb:*

The consumption of English rhubarb is gradually increasing, *Usher* 1593——Doubts as to English rhubarb being sold as foreign rhubarb, *ib.* 1597——Sale of English rhubarb chiefly as Turkey rhubarb, *Gay* 1650, 1651. 1695-1697——Exaggerated character of the evidence given relative to the adulteration of foreign rhubarb, and the use of English rhubarb, *Drew* 3002-3006. 3009. 3019-3030; *Allen* 3877-3879——Large quantities of English rhubarb used as such by Irish poor law unions, *Drew* 3005. 3910-3013.

4. *Adulteration of Powdered Rhubarb:*

In the case of powdered rhubarb, witness has detected an adulteration of turmeric and wheat flour, *Hassall* 4398.

Richardson, Reginald John. (Analysis of his Evidence.)—Officer of the Local Board of Health at Newton Heath, Manchester, 2151, 2152. 2167-2169——Considerable extent to which the practice of slaughtering diseased animals is carried on by some butchers at Newton Heath; the meat, which is most unwholesome, is sold to the public in various forms, 2153-2166. 2172-2174——Witness has two sub-inspectors, practical butchers, to

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Richardson, Reginald John. (Analysis of his Evidence)—*continued.*

accompany him in his visits of inspection to the slaughter-houses, on whose opinion he relies in seizing and condemning bad meat, 2157, 2158. 2163. 2170, 2171.

Diseases produced by the consumption of diseased meat, 2174, 2191, 2192. 2196——Heavy penalties inflicted under the local Act in the event of convictions for selling bad meat, 2176. 2193-2195——The lower classes still buy diseased meat, notwithstanding the convictions, their poverty probably compelling them to do so, 2177-2181.

Vague and unsatisfactory state of the present law for preventing the sale of bad meat, 2182. 2190, 2191——There should be a central Board in London with provincial Boards in large towns, to whom meat might be sent for chemical analysis, 2182-2184. 2196——There should be power to search for and seize diseased meat, wherever it can be found, as well as in slaughter-houses, 2184-2186——The power of dealing with diseased meat should be so extended as not to be dependent merely upon local Acts, 2187, 2188.

There are five knackers' yards at Newton Heath, and it is a constant practice to sell the best parts of the horse to mix with potted meat, and sausages, 2197-2200.

Richter, Emil. (Analysis of his Evidence.)—Doctor of philosophy under a German diploma, 3774, 3775——Is analytical and managing chemist to Messrs. Savory & Moore, 3776——Outline of the system pursued in Germany whereby chemists are well educated and drugs are sold in a pure state, and at a fixed price, 3777-3782. 3806-3830. 3843-3854——Importance of a much higher state of education of chemists and druggists in this country, 3783-3787——Expediency of dealing with adulteration in the germ, and of checking the power and the inducement to defraud, 3783-3789. 3831-3833——Beneficial operation of the Pharmaceutical Society adverted to, 3784, 3785——Also of the press, as a means of exposing impure drugs, 3785, 3786.

Recommended system of inspection of chemists' and druggists' shops, 3787. 3789-3794——Suggestions for the adoption of a system of licensing, whereby not only would there be a check against unqualified chemists, but funds would be raised towards defraying the expense of inspection, 3787-3790——Corrective measures should be gradually carried out, 3789-3794——Inexpediency of prohibiting the importation of impure drugs, 3791-3793. 3834-3838——The retail seller of the article is mainly to be checked, 3792-3794.

Suggestion that, in lieu of the three Pharmacopœias of London, Dublin, and Edinburgh, there should be but one Pharmacopœia applicable to the three countries, 3795-3801——Different Pharmacopœias on the Continent adverted to, 3802, 3803. 3807——With reference to poisons, witness recommends the adoption generally of a peculiarly constructed bottle for containing poison, such plan having been successfully adopted by Messrs. Savory & Moore, 3803-3805——Adoption, in Germany, of a Latin nomenclature of drugs, except as regards the physician's directions accompanying the prescription, which directions are in German, 3839-3841——Question as to the propriety of a Latin nomenclature, 3841, 3842.

Right of Search. Expediency of a right of entry to houses without a warrant from a magistrate, *Wakley* 2216-2218; *Goodman* 3943.

Ripley, Philip. (Analysis of his Evidence)—Tea-broker; has been 10 years in China, 1879-1882——Belief that at the present time tea, both in China and this country, is free from adulteration, 1883, 1884. 1911. 1931-1933——Adulteration previously to the discontinuance of the manufacture of lie tea, which, when witness left China in 1854, was no longer made, 1884. 1888. 1902. 1909, 1910——Substances from which lie tea was made; these were not deleterious, 1884. 1887, 1888——Large importation of lie tea from China during the years 1847 to 1851; 1884, 1885. 1897-1901——Stop to the importation of lie tea on its spurious character becoming generally known; specimens of it were sent by witness to the exhibition of 1851; 1885-1911.

Explanation relative to the facing or colouring of green teas, to the effect that the same is not at all injurious to health, and cannot be considered an adulteration, 1911-1930——Mode of manufacture of green tea; belief that it comes from the same plant as black tea, 1917-1925——Check upon the importation, but not upon the exportation of adulterated tea, 1934, 1935——Variation in the price of tea at Canton and in England, adverted to in connection with the quantity produced, 1936-1942——As broker for the sale of tea to any party, witness would not consider himself answerable in the event of adulteration, 1943-1949.

Robertson, Alexander. (Analysis of his Evidence.)—Particulars as to witness having sent two loaves of bread to Dr. Normandy for analysis, one of which contained alum and one was free from it; and as to Dr. Normandy having reported as the result of his examination that both loaves were without alum, 3605-3624——Great improbability of the miller having already mixed alum with the flour of which these loaves were made, 3621-3633.

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ROCHDALE:

1. *Co-operative Society for the Supply of Flour.*
2. *Co-operative Society for the Supply of Provisions.*

1. *Co-operative Society for the Supply of Flour:*

Witness is bookkeeper and traveller to a corn-mill society at Rochdale, *Farrant* 1200–1202. 1239. 1248——The society was established in order to meet the demand of the public for a pure article, *ib.* 1203–1208——Loss of 450 *l.* by the society during the first nine months of its existence, on account of the dissatisfaction felt with the dark colour of the bread, through the absence of alum in the flour, and some defect in the grinding, *ib.* 1209–1211. 1244–1260. 1263–1268——The price of the flour made by the society was about the same as that of the trade, *ib.* 1212, 1213.

Particulars as to the society having at the end of nine months resorted to the use of alum in order the better to sell their flour, and to prevent further loss; complete success of this experiment, which was continued in practice for three years, *Farrant* 1214–1218. 1261, 1262. 1269–1272. 1287, 1288. 1296, 1297. 1302–1315——Disuse of alum by the society chiefly in consequence of convictions against some persons in other places for using it, *ib.* 1219–1222. 1298–1300. 1319——After three years' use of alum the society returned to the sale of pure flour, the prejudice against the colour having, to a great extent, been removed; further increase of business under this arrangement, *ib.* 1221–1229. 1272–1279. 1292, 1293. 1298–1300——Rice is now put into the flour, but witness does not consider this an adulteration, *ib.* 1221. 1280–1282. 1286. 1316, 1317. 1332–1343.

Constitution and general operation of the society, which numbers about 300 members, *Farrant* 1230–1239. 1344–1347——The mill was established in 1851, *ib.* 1240——Legal check only upon adulteration by the society, *ib.* 1283——The flour of the society is used chiefly by shareholders; how distributed, *ib.* 1289–1291. 1294——About 10,000 persons use the flour, *ib.* 1295——Witness has never heard that the alum when used was unhealthy, *ib.* 1303–1306——Partial disuse of alum by the bakers when the society left it off, *ib.* 1311, 1312.

2. *Co-operative Society for the Supply of Provisions:*

Particulars relative to a co-operative society in Rochdale with which witness is connected, established in 1844, for the purpose of supplying the members, who are all working men, with pure provisions, and for retaining the profits among themselves; beneficial and successful operation of this society, the annual returns of which are about 70,000 *l.*, *Farrant* 1347–1397.

Use for a time, by the society, of chicory, in the coffee sold to the members; stop put to the practice by the members on its becoming known to them, *Farrant* 1356–1366——Articles are sold as near the trade price as posible, *ib.* 1368——The society pays, in the first instance, a dividend of 5 *l.* per cent., and generally a further dividend of about 1 *s.* in the pound, *ib.* 1382——No member can take less than five shares, or more than 100; the shares are 1 *l.* each, 1383——The capital is from 7,000 *l.* to 8,000 *l.*, *ib.* 1384.

Rodgers, Julian. (Analysis of his Evidence.)—Analytical chemist and surgeon, residing in St. George's-road, Pimlico, 3255——Has paid considerable attention to the question of adulteration, more especially of bread and beer, 3256 *et seq.*——As regards bread, has recently examined a considerable number of samples, comprising the description used in workhouses up to that used at Buckingham Palace, and has in every case detected alum, 3257. 3279, 3280——Precautions necessary in the detection of alum, 3257——Impression that the quantity of alum used varies from eight ounces to two pounds in a batch of 116 loaves, 3257. 3294–3296.

Evidence showing that alum in bread, though used in very small quantities, is decidedly injurious to health, 3258–3264. 3273. 3286. 3289. 3309——The main objects in using alum are to enable bakers to use very inferior kinds of flour, and to cause loaves when baked in batch to separate nicely, 3264, 3265. 3301–3306. 3315——Rice is largely used in bread, in order to add to the weight by the absorption of water, 3266, 3267.

Inoperative character of the present law relative to the adulteration of bread in the metropolis, 3268–3271. 3275, 3276——Expediency of a system of public inspection; nature of the system suggested, 3272–3274——In cases of conviction, a notice of the conviction should be placed in the shop window of the offending party, 3274——The expenses of carrying out public inspection, might be defrayed, by making tradesmen pay a small license fee yearly, 3274.

The cheaper the bread the larger the amount of alum, 3277——Whatever the price of wheat, there is the same use of alum, 3281——The only advantage of alum is that it prevents bread from turning mouldy, 3285–3288——The means for detecting alum are not so simple that the public can adopt them; such means explained, 3290–3293. 3297–3300. 3316, 3317——Willingness of respectable bakers to submit to a system of inspection, 3310——The heat in baking would not prevent powdered alum from appearing in a crystalline form, 3311, 3312——The practice of adulterating with alum is prevalent with millers, 3313.

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Rodgers, Julian. (Analysis of his Evidence)—*continued.*

As regards beer, witness has recently undertaken some analyses, and feels certain that he will be able to detect cocculus indicus, 3318-3324. 3338, 3339——Large importation of cocculus indicus for no use so far as witness is aware, except admixture with beer; its importation should be prohibited, 3325-3329. 3347-3351. 3357, 3358——Facility for obtaining cocculus indicus; it is specially prepared by some druggists for publicans and small brewers, and is sold under the name of "multum" and "hard mixture," 3330-3337. 3352-3356——Instance of a publican on entering business being offered a receipt for making three barrels of beer out of two, 3337——Nature of the test employed by witness for detecting cocculus indicus, 3338-3341.

Restrictive measures necessary in respect to the sale of poisons, 3359-3368——It should be indispensable that the purchaser be always accompanied by some one known to the vendor, or that he be furnished with an order from his medical man, 3359. 3364-3366——Belief that secret poisonings are more numerous than is generally supposed, 3361-3363——Defective regulations with regard to the investigation of poisons in cases of coroners' inquests, 3363.

Rum. Fraudulent though not injurious dilution of rum and gin with water, *Hassall* 4535-4538——Injurious quantity of cayenne pepper found by witness in gin and rum, *ib.* 4539-4543.

S.

Saffron. Adulteration of saffron with saff-flower, *Bastick* 862.

Sale of Poisons. Care taken generally by chemists to prevent danger in the sale of poisonous substances, *Taylor* 24——Suggestions recently made by witness, and about to be enforced in Ireland, for distinguishing dangerous from harmless medicines, and external from internal applications by keeping them in differently shaped bottles, *Neligan* 1797-1801.

Witness differs from Dr. Neligan's suggestions as to differently shaped bottles, &c., and considers that the best safeguard is that of marking the word "poison" upon everything which is poisonous, *Bell* 2349-2357.

Restrictive measures recommended by witness in respect to the sale of poisons, *Rodgers* 3359-3368——It should be indispensable that the purchaser be always accompanied by some one known to the vendor, or that he be furnished with an order from a medical man, *ib.* 3359. 3364-3366.

Witness recommends the adoption generally of a peculiarly constructed bottle for containing poison, such plan having been successfully adopted by Messrs. Savory & Moore, *Richter* 3803-3805.

Urgent importance of restriction upon the sale of poisons, some of the most violent poisons being now readily obtainable, *Rep. p.* ix——Nature of the restriction suggested, *ib.*

Samples for Analysis. Means for guarding against abuse in the purchase of samples for analysis, *Carpenter* 2513-2516——Samples should be procured by persons under the local Boards of Health, *Rodgers* 3274——Expediency of providing that fraud is not practised by the person selecting the samples for analysis, *Bingley* 4194-4197——Advantage of a plan of sealed samples, *ib.* 4195-4197——Suggestion that a portion of each sample be entrusted to the care of the town clerk, so as to be produced in case of dispute, *Postgate* 4238. 4300.

Sarsaparilla. Fraud in the importation from America of an article under the name of sarsaparilla which is not sarsaparilla, *Drew* 3196, 3197.

Sausages. There are five knackers' yards at Newton Heath near Manchester, and it is a constant practice to sell the best parts of the horse to mix with potted meats and sausages, *Richardson* 2197-2200.

Scammony. General adulteration of scammony with chalk and flour, *Bastick* 843, 844——There is great difficulty in getting pure scammony, *Challice* 1537——Considerable adulteration both before and after importation, *Neligan* 1740-1746——Scammony was never pure twenty years ago, *Bell* 2321——Extent of the adulteration at the present time, *ib.* 2321-2325.

Great difference in the price and quality of scammony, *Bell* 2322; *Drew* 3106-3109. 3115-3121——Exaggerated character of the evidence as to the adulteration, *Drew* 3110-3114——Doubt as to the mode of disposal of the really worthless scammony, *ib.* 3122-3128——Witness has found an admixture of chalk, *Bingley* 4096——Considerable adulteration detected by witness in compound scammony powder, *Hassall* 4398.

See also *Drugs. Impurities.*

Scarborough. Injurious adulteration of bread in this town, *Postgate* 4221, 4222.

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Scheele's Green. Extensive and injurious use of the substance termed Scheele's green in colouring confectionery, and for other purposes; poisonous property of this mineral, *Taylor* 4-8——Less use of Scheele's green since the date of the present inquiry, *ib.* 4, 5 ——Propriety of checking the use of this substance, *ib.* 7, 8.

Scholefield, Mr. Report proposed by the Chairman of the Committee, *Rep. p.* xiv-xix——The same adopted, with some amendments, *ib. p.* xxvi, xxvii.

Scoffern's Sugar-refining Process. Discontinuance in this country and in two of the colonies of Scoffern's process of sugar-refining on account of its involving the use of acetate of lead which was pronounced by witness and others to be injurious to health, *Carpenter* 2454-2458.

Secret Medicines. See *Patent Medicines. Quack Medicines.*

Secret Poisonings. Belief that secret poisonings are more numerous than is generally supposed, *Rodgers* 3361-3363——Defective regulations with regard to the investigation of poisons in cases of coroners' inquests, *ib.* 3363.

Senna. Cessation of adulteration of senna, through measures adopted by the Pharmaceutical Society, *Bell* 2326——Almost all senna used to be adulterated with cynanchum, *ib.*

Sheffield. Impression that there is not any large amount of injurious adulteration at Sheffield, *Bingley* 4160-4164. 4170-4172.

Sherry Wine. Belief as to the manufacture of sherry out of brandy and water, *Challice* 1502-1504.

Snuff. Adulteration of snuff with various chromates, red lead, lime, and powdered glass, *Rep. p.* iv.

Soap. Large adulteration in soap as supplied to poor-law unions, *Calvert* 2122, 2123.

Spain. Witness lays before the Committee a summary of the regulations adopted by the Spanish government in December last, in order to prevent the importation of adulterated drugs sent from this country, *Wise* 3432-3434——Regulations in Spain with regard to the dispensing of medicines, *ib.* 3432——All prescriptions must be written in the native language, *ib.*——Regulations with regard to patent or secret medicines, *ib.*——Reference by the Committee to the Spanish law, *Rep. p.* vi.

Spices. Belief that spices are not adulterated, as alleged by Dr. Hassall in 1855, *Drew* 2963-2965.

Stamp Duty. Persons professing to sell genuine articles should pay a stamp duty, *Drew* 3196-3198.

Strychnia. See *Beer*, 1. 4.

Substituted Articles. Difficulty of dealing with cases in which articles of food not necessarily unwholesome or inferior are sold as substitutes, such as Tahiti arrowroot for Bermuda arrowroot, &c., *Taylor* 190-200. 209-212——Instances of conviction against parties for selling goods under false pretences, that is, for substituting one article for another, *Goodman* 3929-3933——Though the substitution of one article for another may not be adulteration, it equally requires legislative interference, *Hassall* 4655-4661.

Sugar. Denial of the accuracy of evidence as to the extent of adulteration in sugar; witness has never detected any adulteration, *Abbiss* 291-300——Witness has generally found the moist sugar supplied to poor-law unions to be pure, *Calvert* 2123——Sugar is rarely adulterated, *Woodin* 2759-2769——Presence of insects, called acari, in all brown sugars adverted to as showing the desirableness of using refined or crystallised sugars, *Hassall* 4626-4634——Grape sugar is present naturally in cane sugar; it has also been introduced intentionally, *ib.* 4650.

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Sulphate of Copper. Extensive adulteration of sulphate of copper with sulphate of iron, *Bastick* 850-854.——*See* also *Bread*, II.

Sulphate of Lime. Nature of the adulteration detected by witness therein, *Bingley* 4096.

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TEA:

I. *As to Adulteration generally in Black and Green Teas:*
   1. Evidence to the effect that there is no Adulteration.
   2. Evidence to a contrary Purport.

II. *As to "Lie" Tea:*
   1. Denial that it is now Imported.
   2. Statement in proof of Importation.

III. *Manufacture of Tea in this Country.*
IV. *Colouring of Green Tea; how far injurious.*
V. *Cause of Variation in Price.*
VI. *Remedial Measures considered with a view to purity of Supply.*

I. *As to Adulteration generally in Black and Green Teas:*

1. Evidence to the effect that there is no Adulteration:

Statement that tea is generally sold in this country in a pure state; experience on which this statement is grounded, *Abbiss* 250–252. 256–269. 276–290; *Weston* 1953 *et seq.*; *Locock* 2014 *et seq*——Witness tests the genuineness of his tea by the taste alone, *Abbiss* 265–269. 276. 285—— Use by the Chinese of Prussian blue, &c., for facing green tea; this cannot be considered an adulteration; *ib.* 253–255. 274, 275; *Ripley* 1911–1930——Tea, generally speaking, is pretty good, *Challice* 1518.

Believe that at the present time tea, both in China and this country, is free from adulteration, *Ripley* 1833, 1834. 1911. 1931-1933——Concurrence in the statement that tea is now imported in a pure state, *Weston* 1953, 1954; *Locock* 2013. 2018–2020—— There is scarcely any adulteration practised in this country, and tea, as it reaches the consumer, is purer than any other article, *Weston* 1956, *et seq.*

2. Evidence to a contrary Purport:

Supply through the Co-operative Central Agency (conducted by witness) of a chest of pure green tea to one of the country stores in connexion with it; dissatisfaction given thereby, it being erroneously considered inferior to some green tea previously in use, which was however nothing but coloured black tea, *Woodin* 2527, 2528——Feeling throughout the manufacturing districts in favour of spurious tea, as compared with the genuine tea sought to be sold through the Central Agency, *ib.* 2528. 2610, 1611—— Difficulty of the Central Agency in selling genuine tea in 1851, *ib*, 2534.

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TEA—continued.

I. *As to Adulteration generally in Black and Green Teas*—continued.

2. Evidence to a contrary Purport—*continued.*

Compilation and publication by witness in 1851, of facts bearing upon the adulteration of tea, &c., in order to undeceive consumers in the manufacturing districts, *Woodin* 2528, 2529——Extract from this book, relative to the adulteration of tea in this country and in China, *ib.* 2530–2532——False names under which bohea and twankay are now generally imported, *ib.* 2532–2536——Statement by witness in 1851, that 2,876,388 lbs. of spurious tea are consumed in this country, *ib.* 2532——Improvement since 1851 in regard to the quality of tea sold to the public, *ib.* 2533.

Importation and sale of woping and bohea under the title of a better grade of tea, *Woodin* 2536–2568——Composition of Canton bohea out of congou and woping, *ib.* 2546–2549. 2561–2565——How far there is any difference between woping and bohea, *ib.* 2540–2549. 2560–2565——Sample of naturally green tea produced, *ib.* 2642, 2643——Low opinion entertained of the English by the Chinese for drinking painted and spurious teas, *ib.* 2674. 2731——Very small extent to which frauds are practised in this country with regard to the adulteration of tea, *ib.* 2715–2717. 2724, 2725——Difficulty of procuring genuine green teas from China, *ib.* 2747–2750.

The adulteration or mixture of inferior with good teas is chiefly practised by small dealers, *Divett* 3211——Witness has found catechu in tea, *Postgate* 4280——Samples of adulterated tea produced and explained, *Hassall* 4390. 4653——Size and structure of the tea leaf adverted to, *ib.* 4568–4575. 4638, 4639——Discovery by witness of sulphate of iron in tea, *ib.* 4597–4601.

II. *As to "Lie" Tea:*

1. Denial that it is now Imported:

Belief that lie tea is not now imported, *Abbiss* 270–273——Adulteration in China previously to the discontinuance of the manufacture of lie tea, which, when witness left the country in 1854, was no longer made, *Ripley* 1884. 1888. 1902. 1909, 1910——Substances from which lie tea was made; these were not deleterious, *ib.* 1884. 1887, 1888——Large importation of lie tea from China during the years 1847–1851, *ib.* 1884, 1885, 1897–1901——Stop to the importation of lie tea on its spurious character becoming generally known; specimens of it were sent by witness to the exhibition in 1851, *ib.* 1885–1911.

Witness has not met with lie tea since 1852, when some which cost the importer 1 *s.* a pound was sold at 6 *d.* a pound, *Weston* 1954, 1955——Discontinuance of the importation of lie tea and junk tea as unprofitable, adverted to, as showing the power of the public to prevent adulteration, *ib.* 1968. 1974–1990. 2008.——The junk tea not being saleable, save in a small proportion, was mainly exported to Holland, *ib.* 1977–1985——There is now no demand for lie tea, and it is not imported, *Locock* 2057–2059. 2070——Lie tea pays duty as tea; impropriety thereof, *ib.* 2060–2062. 2067, 2068.

2. Statement in proof of Importation:

Evidence showing that lie tea is still, or has been till very recently largely imported from China, *Woodin* 2570–2611. 2628–2636. 2732–2746——Facility for procuring lie tea at the trade auctions in Mincing-lane, *ib.* 2574–2576. 2732–2735——There are two kinds of lie tea imported; component parts of each, *ib.* 2577——Check upon the importation and sale of lie tea through the exposures in the "Lancet," and before the Committee, *ib.* 2584. 2606–2608. 2612, 2613. 2620. 2628–2636. 2640. 2740–2746. 2751, 2752——Price at which, and name under which lie tea has been sold in the poorer districts, *ib.* 2624——There are no means of ascertaining the actual quantity imported, *ib.* 2637–2641. 2736, 2737——Lie tea cannot be made worse by the retailer, *ib.* 2668.

Witness attends before the Committee, in consequence of information received from a respectable London tea dealer, in order to controvert the allegation that lie tea is not now imported, nor to be had in the market, *Divett* 3203–3206——Unwillingness of witness's informant to give evidence in person, *ib.* 3205, 3214. 3237——Particulars as to the information received from this person in proof of the recent importation and sale of different kinds of spurious or lie tea; samples of such tea (given by him to witness) laid before the Committee, *ib.* 3206. 3212–3253——Witness has no direct experience in regard to adulterated or lie tea, *ib.* 3210.

Use up to a recent period of lie tea, as proved by the purchase within the last few days of some tea containing a proportion of lie tea, *Hassall* 4390, 4391. 4640–4646.

III. *Manufacture of Tea in this Country:*

Spurious tea has not been manufactured in England for some years, *Abbiss* 257, 258.

Instances of ingenious adulteration of tea in this country, by turning what is called scented caper into pearl-leaf gunpowder, *Divett* 3206–3209——Data for the conclusion that exhausted tea leaves, and British and foreign leaves, other than those of the tea plant are mixed with tea leaves and sold as genuine tea, *Hassall* 4564–4596——Instances of seizures of exhausted tea-leaves by the Excise, *ib.* 4564, 4565——Stoppage within the last two years of some tea manufacture in this country by the Excise, *ib.* 4582–4591.

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IV. *Colouring of Green Tea; how far injurious:*

Mode of manufacture and colouring of green tea; belief that it comes from the same plant as black tea, *Ripley* 1917–1925——The colouring is not injurious to health, *Ripley* 1923–1929; *Weston* 2001——Different colouring matters, such as Prussian blue, &c. used in China for imparting the artificial green colour, *Ripley* 1930; *Woodin* 2645.

All genuine teas in China are of the same colour, *Woodin*, 2648–2653——Difference in the colour of black and green tea, adverted to as the effect of the manipulation, *ib.* 2651–2656——Small proportion of green tea imported without being previously artificially coloured, *ib.* 2671–2673. 2747–2750——Belief as to the artificial colouring of some of the green teas being injurious to health, *Woodin* 2674. 2710–2714. 2719–2723. 2726, 2727; *Hassall* 4635–4627——The practice of painting is not necessary in any case, and is only done to order by the Chinese, *Woodin* 2674–2676.

V. *Cause of Variation in Price:*

Variation in the price of tea at Canton, and in England, adverted to as the result of variation in the quantity produced and imported, *Ripley* 1936–1942.

VI. *Remedial Measures considered with a view to purity of Supply:*

Check at present upon the importation, but not upon the exportation of adulterated tea, *Ripley* 1934, 1935——As broker for the sale of tea to any party, witness would not consider himself answerable in the event of adulteration, *ib.* 1943–1949——Protection against the adulteration of tea in the taste of the public, *Weston* 1998–2008; *Locock* 2022–2033. 2043. 2066. 2076——If lie tea were sold as genuine tea, it would be a fraud, and means should be adopted to punish the seller, *Locock* 2034, 2035. 2072–2075——The wholesale dealer, the retailer, and the consumer can protect themselves against lie tea, and do not require legislative interference, *ib.* 2064–2075.

Suggested adoption of a system of *ad valorem* duties, *Woodin* 2567, 2568. 2662. 2690–2697——The importation of all painted or artificially coloured tea should be stopped altogether, *ib.* 2569, 2570. 2642 *et seq.* 2694–2697. 2708——Artificially coloured tea might be easily detected at the Custom-house, *ib.* 2647——Facility for distinguishing between different kinds and qualities of tea, *ib.* 2657–2661——The painting of teas in this country should be a punishable offence, *ib.* 2664–2666. 2709——It is not desirable nor possible to prevent the sale of mixed black teas of different qualities, *ib.* 2698–2706. 2718——The prohibition of painted teas would apply to lie tea, *ib.* 2728–2730.

See also *Ad Valorem Duties.* *Tysam Tea.*

Thompson, Lewis. (Analysis of his Evidence.)—Analytical chemist; is also a member of the College of Surgeons and a licentiate of the Apothecaries' Company, 434–437——Within the last eight months has examined samples of bread procured chiefly by working people at seventy-eight different shops, 438–440. 478——The constituents of alum were found in all these samples, but alum, as such, did not exist, 440–455——Erroneous impression produced by witnesses who have assumed that alum remains in bread after the process of baking; error of Liebig hereon, 447–455. 470–477. 491——Belief that the constituent parts of alum, as found in bread, are not injurious to health, 456–458. 491. 516. 522–524. 528.

Respects in which the admixture of alum is advantageous, 459–462. 500. 502–504. 525–527——The use of alum expressly for the purpose of improving the appearance of inferior flour, so that it may be sold as good flour, is not considered unjustifiable by witness, 462–464. 499–501. 506–510——The maceration of bread in water does not leave any taste of alum in the water, 465, 466. 469——Fallacious evidence given by Mr. Postgate before the Committee in 1855 (*Q.* 2123), as to means for detecting alum in bread; illustration in proof of this statement, 466–468——Erroneous evidence also of Dr. Normandy (*Q.* 568), as to the detection of alum, 468. 470–477.

Greater price per lb. of flour than of bread; explanation that $3\frac{1}{2}$ lbs. of flour will make more than 4 lbs. of bread on account of the absorption of water, 478–484——Doubt as to bread with alum in it absorbing more water than bread without alum, 485–490——The use of alum in bread, unless much more largely than at present, does not call for legislative interference, 492–510. 529–538——Belief that it is quite notorious to the public that alum is always used in bread, and that notice by bakers of the fact would not diminish their trade, 511–521——Similar constituents of alum found by witness in bread lately bought by him in Paris, as in London bread, 516, 517. 522–524——Perceptive faculties of the lower classes adverted to, as showing that in the case of bread, beer, &c., taste is a great protection against adulteration, 533–539.

As regards beer, witness considers that adulteration is not practised by the brewer, 540——Belief that the only adulteration by the publican is the addition of some coarse sugar for the purpose of fermentation, 540–543——Profit derived through the fermentation produced by the sugar, 543. 593, 594——Witness has examined a great many samples of beer, and has never detected cocculus indicus, quassia, or gentian; these, however,

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Thompson, Lewis. (Analysis of his Evidence)—*continued.*

ever, cannot be detected chemically, 544-547. 549. 566-590——Belief that ales are adulterated with some bitter substance, though the same cannot be proved by chemical means, 545. 548, 549. 570. 572.

Circumstance of cocculus indicus being largely imported into this country, for what purposes witness cannot say, 550-552. 600, 601——Rapid and stupifying effect of coculus indicus contrasted with the stimulating effect of alcohol; inference that there can be no motive for putting it into beer, 552-565——Witness never found strychnia or morphia in bitter ales, 574, 575——The practice of adulteration would not, in the end, be beneficial to the publican, 581, 582. 591. 602, 603——Equally good and wholesome character of the retail as of the wholesale beer, 583——Probable use of sugar in the manufacture of beer adverted to as some explanation of the less use of malt and hops, 584-588——Ample profit of the publican without resorting to adulteration, 591-599.

In the case of vinegar, witness considers the adulteration has been greatly exaggerated, 604——Erroneous statement published by the "Lancet" in regard to the adulteration of vinegar manufactured by Messrs. Hall & Evans, of Worcester; tardy and meagre apology by the "Lancet" after the manufacturers had been put to considerable expense, 604, 605——Explanation of the test adopted by witness in order to ascertain the presence of sulphuric acid in vinegar, 605, 606——Simple means for testing the composition of pickles, 607——Belief that the great mass of the food of the country is not so adulterated as to cause disease, 608, 609.

Approval of legislative interference for the prevention of injurious adulteration; it must, however, be exercised with the greatest caution, and any tradesman prosecuted wrongfully should recover his expenses in the matter, 609-614. 638-658——Instances of proceedings wrongfully taken by the Excise in the case of tobacco and beer, to the great injury of the parties concerned, 614-617. 645. 651-656——Witness has often been employed against the Excise, 618, 619.

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Tobacco. Adulterating ingredients sometimes found by witness in tobacco; how far injurious, *Thompson* 619-621. 626-635——Instance of conviction by the Excise for adulteration of tobacco, *Mackenzie* 4050, 4051——Summary power of the Excise in regard to tobacco, *ib.* 4053-4055——Belief nevertheless that tobacco is extensively adulterated, *ib.* 4056-4058.

Tradesmen. Great interest taken in the proceedings of the Committee by tradesmen, the great body of whom are anxious for legislative interference, *Wakley* 2205-2208. 2217, 2218.

Turmeric. Immense adulteration in the case of compound powder of turmeric, *Bastick* 868, 869——Belief that turmeric, as used in mustard, is not prejudicial to health, *Gay* 1613——Instance of adulteration of turmeric with a composition of chrome yellow, *ib.* 1621, 1622——Considerable adulteration of turmeric with yellow ochre and alkali, *Hassall* 4397, 4398.——*See* also *Annatto. Mustard.*

Tysam Tea. Manufacture at Canton, or somewhere up the country, of teas called Tysam, in imitation of the Assam teas, and sold as such in this country, *Woodin* 2676-2689.

U.

Unfermented Bread. Injurious property of the muriatic acid as used in unfermented bread, *Taylor* 40, 41.

Doubt as to the expediency of interdicting unfermented bread, which is by some looked upon as an improvement upon the ordinary bread, *Callard* 3573-3575.

United States of America. See *Drugs*, 3. *New York, State of.*

Unjust Convictions. Nature of the protection or remedy which tradesmen should have against unjust or mistaken convictions by a public Sanitary Commission, *Wakley* 2259-2272.

Usher, Rufus. (Analysis of his Evidence.)—A grower of English rhubarb at Boddicott, near Banbury, 1568, 1569——English rhubarb was first grown in 1789, when it was introduced by Mr. Hayward, of Banbury, 1570——It has been extensively used as a medicine since 1811, when the plants were bought by witness's father, 1571, 1572——The culture is rather expensive, 1573——It is a different article from the ordinary garden rhubarb, 1574-1576.

In proof that English rhubarb is a valuable medicament, and that it is not much inferior to foreign rhubarb, witness adduces the testimony of the late Dr. Pereira, of Mr.

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Usher, Rufus. (Analysis of his Evidence)—*continued.*

Mr. Tustin, dispenser at the London Hospital, of Professor Redwood, and of Dr. Thompson, as contained in his "London Dispensatory" of 1837; 1577–1580. 1587–1590——Exclusive and successful use of English rhubarb in the London Hospital for the last thirteen years, 1577, 1578. 1591, 1592——Relative prices of English and foreign rhubarb; inaccuracy of statements hereon by Mr. Warington and Mr. Herring, 1581–1584——Importation of inferior foreign rhubarb in 1846 adverted to, 1584–1586.

The consumption of English rhubarb is gradually increasing, 1593——There is but one other grower, also near Banbury, besides witness, 1594——The soil near Banbury is particularly well suited for the cultivation, 1595——The plants are similar to those originally introduced in 1789; 1596——Doubt as to English rhubarb being sold as foreign rhubarb, 1597.

Uttoxeter. Instances of rice flour sold as wheat flour at Uttoxeter; penalties inflicted on the millers, *Calvert* 2088. 2090, 2091.

V.

Verdigris. Instances of adulteration of verdigris in Somersetshire forty-five years ago, *Wakley* 2204.

Vinegar. Witness has found vinegar much adulterated with sulphuric acid, *Taylor* 170–174——Doubt as to oil of vitriol (so called) being found in vinegar in enormous quantities, *ib.* 171. 174——Injurious effect in course of time of sulphuric acid as used in vinegar; means of detecting it; *ib.* 173–176. 179, 180——Use of corrosive sublimate as well as of sulphuric acid and oil of vitriol in vinegar, *Gay* 1662–1666——Adulteration of vinegar as imported from abroad, *ib.* 1709——A small quantity of sulphuric acid in vinegar is a serious adulteration, *Hassall* 4649.

Witness considers that the adulteration has been greatly exaggerated, *Thompson* 604——Erroneous statements published by the "Lancet" in regard to the adulteration of vinegar manufactured by Messrs. Hall & Evans, of Worcester; tardy and meagre apology by the "Lancet," after the manufacturers had been put to considerable expense, *ib.* 604, 605——Explanation of the test adopted by witness in order to ascertain the presence of sulphuric acid, *ib.* 605, 606.

See also *Pyroligneous Acid.*

W.

Wakefield. Conviction of a miller near Wakefield for adulteration of flour with alum, *Jackson* 3735. 3743–3747.

Wakley, Thomas. (Analysis of his Evidence.)—Coroner for Middlesex, and editor of the "Lancet," 2201——Has paid considerable attention to the question of adulteration, and, in 1851, devoted a portion of the "Lancet" to the exposure of the practice, with a view to its prevention by the Legislature, 2202–2204——The practice has existed for a very long period, 2204——Extensive and dangerous adulteration practised about the year 1811, at a druggist's in Somersetshire, to whom at the time witness was articled as pupil; the articles adulterated were always sent to London, 2204, 2205. 2311.

Adulteration has of late years immensely increased, and will further increase upon the termination of the labours of the Committee, unless they take active steps for its suppression, 2204–2206——Great interest taken in the proceedings of the Committee by tradesmen, the great body of whom are anxious for legislative interference, 2205–2208. 2217. 2278——Main importance of publicity as a check on adulteration; suggestions hereon, 2209–2216. 2218, 2219. 2257——Inadequacy of the proceedings of the Excise for the prevention of adulteration, which they treat merely as a question of revenue, 2210–2213. 2234.

Machinery suggested in connexion with the General Board of Health for the detection and punishment of adulteration, 2213. 2227. 2258——Expediency of a right of entry to houses without a warrant from a magistrate, 2216–2218——Objection to the infliction of heavy penalties, 2218, 2219. 2304, 2305——Large number of names published in the "Lancet" as connected with the sale of adulterated articles; enemies made thereby by witness, though there was no prosecution against him, 2220–2225——Accuracy and fidelity with which the Sanitary Commission of the "Lancet" was conducted by Dr. Hassall, 2226. 2268.

Machinery suggested in connexion with local Boards of Health for the prevention of adulteration, 2227–2230. 2240–2242. 2289–2292——Inoperativeness of certain laws now in force for checking adulteration, 2233–2239——Uselessness of leaving it to the poor to detect and prosecute, 2236–2238——Necessity of educated persons for detecting adulteration; these might soon be found, 2239. 2291.

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Wakley, Thomas. (Analysis of his Evidence)—*continued.*

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Wax. Constant adulteration of wax with spermaceti, or with some cheaper kind of fat, *Bastick*, 862.

Weston, William. (Analysis of his Evidence.)—Tea broker; has been in China, and has a large experience of the trade, 1950–1952——Concurs with Mr. Ripley, that adulterated tea is not now imported into this country, 1953, 1954——Has not met with lie tea since 1852, when some which cost the importer 1 *s.* a pound was sold at 6 *d.* a pound, 1954, 1955——Considers that there is scarcely any adulteration practised in this country, and that tea as it reaches the consumer is purer than any other article; experience on which this statement is grounded, 1956 *et seq.*——Discontinuance of the importation of lie tea and junk tea as unprofitable, adverted to as showing the power of the public to prevent adulteration, 1968. 1974–1990. 2008——Protection against the adulteration of tea in the taste of the public, 1998–2008——The colouring of green tea is not injurious to health, 2001.

Wheat. Better character of foreign than of English wheat, on account of the land producing a less quantity per acre, or being virgin soil, *Brown* 3437. 3477–3496. 3507.

White Precipitate. Large and injurious adulteration in the case of white precipitate, *Bastick* 859. 862——Facility for detecting adulteration, *Baiss* 1026, 1027.

Wickham, Edward. (Analysis of his Evidence.)—Has been engaged in the brewing business in London and in the country, 3369–3373. 3392. 3397——Adulteration of beer mainly takes place in the cellar of the publican, 3372–3375——It is not practised by any large brewers in London, though it may be resorted to by some small brewers, 3372–3375. 3393, 3394——Publicans who do not adulterate form exceptions to the rule, 3376——Description of the usual adulteration by publicans, 3377–3382. 3391——Reference to adulteration as forming the main profit of the publican, 3383–3388. 3423, 3424.

Grounds for the belief that cocculus indicus is not used either by brewers or publicans in London, 3389–3406. 3413–3420——Use of cocculus indicus by small brewers in Derbyshire, 3407. 3421, 3422——Use of quassia and gentian for the sake of imparting a bitter flavour, 3408–3412——Use of copperas and roach alum in order to raise a froth, 3425–3428——If the Excise were to put in practice their power of inspection of publicans' cellars, the prevalence of adulteration would be greatly checked, 3428–3431.

Wine. Statement showing that damaged wines, such as bad claret and bad Italian red wines, are manufactured into London port; the ingredients used are not actually injurious to health, *Taylor* 71–80——Purity of port and sherry wines as examined by witness, *Blyth* 787–789——Printed recipe produced for making imitation of good port wine; explanation thereon; *Bastick* 895–904——Quality and price of the article sold as port wine, though only an imitation, *ib.* 924–946——Compound mixture sold to the poor as port wine; injurious properties thereof; *Challice* 1498–1501. 1505——Facility for detecting adulteration in port wine, *ib.* 1517——Difficulty of determining the amount of dilution which should constitute adulteration in the case of wine, *Hassall* 4661–4667.

See also *Sherry Wine.*

Wise, John Ayshford (Member of the Committee). (Analysis of his Evidence.)—Lays before the Committee a summary of the regulations adopted by the Spanish Government in December last in order to prevent the importation of adulterated drugs sent from this country, 3432–3434——Regulations in Spain with regard to the dispensing of medicines, 3432——All prescriptions must be written in the native language, *ib.*——Regulations with regard to patent or secret medicines, *ib.*

Report, 1856—*continued.*

Wolverhampton. Extensive adulteration of articles sold in this town, *Postgate* 4223.

Woodin, Joseph. (Analysis of his Evidence.)—Grocer and tea-dealer for twenty-five years, 2521, 2522——For the last five years has been conducting the Co-operative Central Agency, established for the purpose of supplying unadulterated goods to the consumers, 2522-2525——Supply through the Central Agency of a chest of pure green tea to one of the country stores in connexion with it; dissatisfaction given thereby, it being erroneously considered to be inferior to some green tea previously in use, which was, however, nothing but coloured black tea, 2527, 2528.

Feeling throughout the manufacturing districts in favour of spurious tea as compared with the genuine tea sought to be sold through the Central Agency, 2528. 2610, 2611——Compilation and publication by witness, in 1851, of facts bearing upon the adulteration of tea, &c., in order to undeceive the consumers in the manufacturing districts, 2528, 2529——Extract from this book, relative to the adulteration of tea in this country and in China, 2530. 2532——Witness has never been in China, 2531——False names under which bohea and Twankay are now generally imported, 2532. 2536——Statement by witness in 1851, that 2,876,388 lbs. of spurious tea are consumed in this country, 2532.

Improvement since 1851 in regard to the quality of tea sold to the public, 2533——Difficulty of the Central Agency in selling genuine tea in 1851; 2534——Importation and sale of woping and bohea under the title of a better grade of tea, 2536-2568——How far there is any difference between woping and bohea, 2540-2549. 2560-2565——Composition of Canton bohea out of congou and woping, 2546-2549. 2561-2565——If there were an *ad valorem* duty on bohea the consumer could purchase it for 1 *s.* or 1 *s.* 4 *d.* a pound, 2567——Injustice to the poor man in spurious and inferior teas being palmed off upon him, such teas being subject to the same duty of 1 *s.* 9 *d.* a pound as the best teas, 2568. 2662. 2690-2693——The importation of all painted or artificially coloured tea should be stopped altogether, 2569, 2570. 2642 *et seq.* 2694-2697. 2708.

Evidence showing that lie tea is still, or has been till very recently, largely imported from China, 2570-2611. 2628-2636. 2732-2746——Facility for procuring lie tea at the trade auctions in Mincing-lane, 2574-2576. 2732-2735——There are two kinds of lie tea imported; component parts of each, 2577——Check upon the importation and sale of lie tea through the exposures in the "Lancet" and before the Committee, 2584. 2606-2608. 2612, 2613. 2620. 2628-2636. 2640. 2740-2746——Price at which, and name under which, lie tea has been sold in the poorer districts, 2597. 2608-2610. 2621-2624——There are no means of ascertaining the actual quantity of lie tea imported, 2637-2641. 2736, 2737.

Sample of naturally green tea produced, 2642, 2643——Colouring matters used in China for imparting the artificial green colour, 2645——Artificially coloured tea might be easily detected at the Custom-house, 2647——All genuine teas in China are of the same colour, 2648-2653——Difference in the colour of black and green tea adverted to as the effect of the manipulation, 2651-2656——Facility for distinguishing between different kinds and qualities of tea, 2657-2661——The painting of teas in this country should be a punishable offence, 2664-2666. 2709——The lie tea cannot be made worse by the retailer, 2668.

Small proportion of green tea imported without being previously artificially coloured, 2671-2673. 2747-2750——The practice of painting is not necessary in any case, and is only done to order by the Chinese; it is injurious to health, 2674-2676. 2710-2714. 2719-2723. 2726, 2727——Low opinion entertained of the English by the Chinese for drinking painted and spurious teas, 2674. 2731——Manufacture at Canton, or somewhere up the country, of teas called Tysam in imitation of the Assam teas, and sold as such in this country, 2676-2689——An *ad valorem* duty is not necessary if all painted teas be prohibited, 2696, 2697—— It is not desirable, nor possible, to prevent the sale of mixed black teas of different qualities, 2698-2706. 2718.

Very small extent to which frauds are practised in this country with regard to the adulteration of tea, 2715-2717. 2724, 2725——The prohibition of painted teas would apply to lie tea, 2728-2730——Difficulty of procuring genuine green teas from China, 2747-2750—— Effect of the exposures in the "Lancet," &c., in correcting the public taste in regard to tea, 2751, 2752.

With reference to coffee, it is contended that the admixture of chicory is prejudicial to the fair trader, the consumer, and the revenue, and should therefore be prohibited, 2753-2759. 2807——Coffee sold at 1 *s.* a pound generally consists of half chicory; fraud on the consumer thereby, 2755-2757——Lax morality in trade produced by the power of using chicory to any extent, 2759——Reference to sugar, to the effect that it is rarely adulterated, 2759-2769.

Belief that coffee is not adulterated with any other article than chicory, 2770. 2805——The annual consumption of chicory is about 12,000 tons, and of coffee about 18,000 tons, 2770——In the case of the society or agency to which witness belongs, it is found

Report, 1856—*continued.*

Woodin, Joseph—(Analysis of his Evidence)—*continued.*

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Workhouses. See *Poor Law Unions.*

Y

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Brought from the Lords, 5 June 1856.

REPORT

FROM THE

SELECT COMMITTEE OF THE HOUSE OF LORDS,

APPOINTED TO INQUIRE

Whether it is expedient to make any, and, if so, what Provision for more effectually securing the efficient Exercise of the Functions of this House as a COURT OF APPELLATE JURISDICTION; and further, how any such Provision would affect the general Character of this House;

AND TO REPORT THEREON TO THE HOUSE;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

AND AN

INDEX.

Session 1856.

Ordered, by The House of Commons, *to be Printed,*
6 *June* 1856.

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REPORT.

BY THE LORDS COMMITTEES appointed a SELECT COMMITTEE to inquire whether it is expedient to make any, and, if so, what Provision for more effectually securing the efficient Exercise of the Functions of this House as a COURT OF APPELLATE JURISDICTION; and further, how any such Provision would affect the general Character of this House; and to Report their Opinion thereupon:—

ORDERED TO REPORT,

THAT the Committee have met, and, in pursuing the important inquiry entrusted to them, have examined several of the leading Counsel employed in the business of Appeal at your Lordships' Bar, and subsequently the Lord Justice Clerk, the Lord Justice General of Scotland, the Master of the Rolls, Vice-Chancellor Stuart, and Lord St. Leonards.

Among these witnesses there appears to be a very general agreement as to the expediency of retaining the Appellate Jurisdiction of the House, and in this view the Committee entirely concur.

Although some of the witnesses have stated that the working of the present tribunal is perfectly efficient and satisfactory, and testimony has been generally borne to the wisdom and impartiality with which the law has been administered by it, yet there is a great preponderance of opinion in favour of some change in the manner in which the appellate business of the House of Lords is at present conducted.

The principal objections raised by the witnesses against the present constitution and practice of this ultimate Court of Appeal are as follows:

1. That none of the Law Lords, except the Lord Chancellor, being bound to attend, there is an uncertainty as to the number of those Peers who may assist at the hearing of any case; and that the attendance of Peers who, from want of professional knowledge and experience, decline to interfere in the proceedings, takes away from the solemnity of the tribunal, and leads to misconception on the part of the public, when their presence is only required in order to make a House.

2. That delay, sometimes inconvenient to the suitors, and prejudicial to the regular administration of justice, is caused by the House not being able to sit during the whole of that portion of the year during which the Inferior Courts are open.

3. That the administration of Scotch law has been at times unsatisfactory from the want of familiarity with the Scotch law, consequent upon the Law Lords being exclusively English Judges.

4. That there is an unnecessary expense attending some of the forms of proceeding.

5. That the mode of delivering judgment, and the absence of official dress, deprive the House of the solemnity which attends ordinary judicial proceedings.

The Committee have carefully considered these objections raised by the witnesses, and also the various suggestions that have been made with a view of meeting them; and they have to submit the following as the conclusions to which they have come:—

1. It appears from the evidence, that for the last 10 or 15 years the appeals have been heard sometimes by as many as four Law Lords, sometimes by three or two, and instances have been adduced where appeals have been heard and decided in this House, with advantage to the law, and satisfaction to the public, by the Lord Chancellor or one Law Lord alone. The Committee are, however, of opinion that, considering the importance of the causes brought to this ultimate Court of Appeal, the House should, as a general rule, be able to reckon on the attendance of not less than three Law Lords to assist in the hearing of all appeals; but in making this recommendation, the Committee by no means wish to discourage the attendance of other Members of the House.

Although during certain periods the number of Law Lords in regular attendance on the appellate business has been adequate to meet the requirements of the public and the profession, experience has proved that such attendance cannot always be relied on. Hitherto, those by whom this duty has been discharged have been for the most part ex-Chancellors. The Committee are of opinion that the attendance of others equally qualified to sit with those Peers in judgment on the decision of the inferior Courts would be best secured by the creation of other high legal offices, in connexion with the House of Lords, with such salaries as would ensure their acceptance by the most eminent Judges. The Committee are, therefore, of opinion that it is desirable that two offices should be created, to be held by two Law Lords, whose duty it should be to assist the House in the performance of its judicial duties; and they accordingly recommend that Her Majesty should be empowered to appoint two Lords to be Deputy Speakers of the House of Lords, with salaries attached to their offices. The Committee do not propose that these appointments should interfere with Her Majesty's power to appoint unpaid Deputy Speakers of the House.

As the Lords holding the proposed offices would be entrusted with judicial duties of the highest importance, and as the Committee believe experience to afford the only sure test of the fitness of even eminent lawyers for such duties, they would further recommend, that persons who have held some high judicial office in the United Kingdom for not less than Five years should alone be eligible for these appointments.

They recommend that the office of a paid Deputy Speaker of the House shall be held by the same tenure as the office of a Judge, and that every such person shall receive, out of the Consolidated Fund, a yearly salary of £. 6,000, or such yearly sum as, with any pension to which he may be entitled for past services, will make up a yearly income of £. 6,000, so long as he shall hold the said office.

2. With respect to the delay which now occurs in hearing Appeals, from the sittings of the House not being co-extensive with the sittings of the inferior Courts, the Committee advise that the House should be enabled to authorise its sittings to be resumed or continued for the hearing of Appeals only at such times as may be deemed expedient for the exercise of the Appellate Jurisdiction, notwithstanding the prorogation of Parliament.

3. The Committee have paid great attention to the important evidence which they have heard on the subject of the Scotch Appeals. Nearly all the witnesses who spoke to this part of the subject admit that very material advantages have been derived by Scotland in the course of the administration of the law by the House of Lords, and some of them are of opinion that it is still advisable to keep the Appellate Jurisdiction entirely distinct from the Scotch Bench and Bar; but, on the other hand, arguments were urged, with considerable

able force, against the anomaly of the final Court of Appeal from Scotland being so constituted as never to comprehend a Scotch Judge or any person necessarily acquainted with Scotch law. It appears that the majority of the Bar, and the Writers of the Signet in Edinburgh, are in favour of one of the members of this Appellate Court being a Scotch lawyer. It is not proved that this is the opinion either of the mercantile classes, or of the community at large in Scotland. The Committee are of opinion that no fixed and invariable rule should be adopted on this subject.

4. The Committee recommend to the attention of the House the complaints which they have quoted above as to the unnecessary expense of some of the proceedings of the House, particularly in respect to the printing of the cases. They are of opinion that this, together with other suggestions for the prevention of delay, are questions which will be best dealt with by the Lord Chancellor and the Lords who assist him in hearing Appeals.

5. The Committee have heard much conflicting evidence as to the best mode of delivering judgments. It is argued, on the one hand, that the great principles of law are best elucidated by separate judgments, when the Judges in the Court of Appeal differ in opinion, and that the separate declaration of opinion is satisfactory to the suitors, as proving that great attention has been paid to the cause. On the other hand it is urged, that such divisions diminish the authority of the tribunal of ultimate resort, and tend to produce uncertainty in the law, without any countervailing advantage; and the example of the Judicial Committee, where differences of opinion are not expressed, has been quoted as favourable to the deliberation being in private, and the opinion of the majority given as the collective judgment of the tribunal. The Committee are of opinion that this is a matter of discretion, which must be left to be arranged among those who hear and decide the Appeals; but they recommend that those who hear the Appeals should have leave to sit at the table, and deliver their opinions sitting.

The attention of the Committee has been drawn to the difficulty which may, in some cases, be felt hereafter, of appointing the most fit persons to judicial offices connected with the House of Lords, if it cannot be done without conferring on them hereditary Peerages; and it appears to the Committee advisable, that any person appointed to such an office should be enabled, by authority of Parliament, to sit and vote in the House, and enjoy all the rights and privileges of a Peer of Parliament, under a Patent conferring a Peerage for life only, if the Crown may have granted, or shall grant, the same to such person in preference to an hereditary Peerage: provided always, that not more than four persons shall have seats in the House at one time as Peers for life.

The Committee recommend that in all respects, excepting those where change has been recommended in this Report, the functions of the Lord Chancellor and the rights and privileges of the whole body of the Peers shall remain unaffected.

And the Committee have directed the MINUTES of EVIDENCE taken before them to be laid before your Lordships.

20th May 1856.

LORDS PRESENT, AND MINUTES OF PROCEEDINGS AT EACH SITTING OF THE COMMITTEE.

Die Lunæ, 3° *Martii* 1856.

PRESENT:

Lord Chancellor.	Viscount Gordon.
Lord Privy Seal.	Lord Sundridge.
Marquis of Lansdowne.	Lord Redesdale.
Earl of Derby.	Lord Lyndhurst.
Earl Stanhope.	Lord Brougham and Vaux.
Earl of Carnarvon.	Lord Abinger.
Earl Grey.	Lord Elgin.
Earl of Ellenborough.	Lord St. Leonards.

Order of Reference read.

The *Lord Privy Seal* added to the Committee in place of Lord *Glenelg*.

Order of The House, of Thursday last, empowering the Committee to appoint their own Chairman, read.

It is proposed that the Lord Chancellor do take the Chair. The same is agreed to; and the Lord Chancellor takes the Chair accordingly.

The course of Proceeding is discussed.

Ordered, That this Committee be adjourned to Thursday next, Two o'clock.

Die Jovis, 6° *Martii* 1856.

PRESENT:

Lord Chancellor.	Viscount Gordon.
Lord Privy Seal.	Lord Sundridge.
Marquis of Lansdowne.	Lord Redesdale.
Earl of Derby.	Lord Lyndhurst.
Earl Stanhope.	Lord Brougham and Vaux.
Earl of Carnarvon.	Lord Abinger.
Earl Grey.	Lord Elgin.
Earl of Ellenborough.	Lord St. Leonards.

The LORD CHANCELLOR in the Chair.

Order of Adjournment read.

The Proceedings of Monday last are read.

Mr. *Solicitor-General*, M.P., and Sir *Fitzroy Kelly*, M.P., attending, are examined, and withdraw.

Ordered, That this Committee be adjourned till To-morrow, Two o'clock.

Die Veneris, 7° *Martii* 1856.

PRESENT:

Lord Chancellor.	Viscount Gordon.
Lord Privy Seal.	Lord Sundridge.
Marquis of Lansdowne.	Lord Redesdale.
Earl of Derby.	Lord Lyndhurst.
Earl Stanhope.	Lord Brougham and Vaux.
Earl of Carnarvon.	Lord Abinger.
Earl Grey.	Lord Elgin.
Earl of Ellenborough.	Lord St. Leonards.

The LORD CHANCELLOR in the Chair.

Order of Adjournment read.

The Proceedings of yesterday are read.

Order of The House of yesterday for printing the Evidence taken from time to time before this Committee, but directing that no copies thereof should be delivered out, except to the Members of the Committee, until further order, read.

Sir *Fitzroy Kelly*, M.P., attending, is again examined, and withdraws.

Richard Malins, Esq., M.P., attending, is examined, and withdraws.

Ordered, That this Committee be adjourned till Monday, Two o'clock.

Die Lunæ, 10° *Martii* 1856.

PRESENT:

Lord Chancellor.	Earl of Ellenborough.
Lord President.	Lord Sundridge.
Lord Privy Seal.	Lord Redesdale.
Marquis of Lansdowne.	Lord Lyndhurst.
Earl of Derby.	Lord Brougham and Vaux.
Earl Stanhope.	Lord Elgin.
Earl Grey.	Lord St. Leonards.

The LORD CHANCELLOR in the Chair.

Order of Adjournment read.

The Proceedings of Friday last are read.

Roundell Palmer, Esq., Q.C., a Member of the House of Commons, attending, is examined, and withdraws.

J. Rolt, Esq., Q.C., is called in, examined, and directed to withdraw.

Ordered, That this Committee be adjourned to Thursday next, Two o'clock.

Die Jovis, 13° *Martii* 1856.

PRESENT:

Lord Chancellor.	Viscount Gordon.
Lord President.	Lord Sundridge.
Lord Privy Seal.	Lord Lyndhurst.
Marquis of Lansdowne.	Lord Brougham and Vaux.
Earl of Derby.	Lord Abinger.
Earl Stanhope.	Lord Elgin.
Earl Grey.	Lord St. Leonards.
Earl of Ellenborough.	

The LORD CHANCELLOR in the Chair.

Order of Adjournment read.

The Proceedings of Monday last are read.

The

The Right hon. the *Lord Advocate* for Scotland, a Member of the House of Commons, attending, is examined, and withdraws.

James Anderson, Esq., Q. C., is called in, examined, and directed to withdraw.

Ordered, That this Committee be adjourned till To-morrow, Four o'clock.

Die Veneris, 14° *Martii* 1856.

PRESENT:

Lord Chancellor.	Earl of Ellenborough.
Lord President.	Viscount Gordon.
Lord Privy Seal.	Lord Sundridge.
Earl Stanhope.	Lord Brougham and Vaux.
Earl Grey.	Lord St. Leonards.

The LORD CHANCELLOR in the Chair.

Order of Adjournment read.

The Proceedings of yesterday are read.

Charles Clark, Esq., is called in, examined, and directed to withdraw.

Mr. *Solicitor-General*, M. P., and *Roundell Palmer*, Esq., M. P., attending, are further examined, and withdraw.

Ordered, That this Committee be adjourned to Thursday next, 3d April, Two o'clock.

Die Jovis, 3° *Aprilis* 1856.

PRESENT:

Lord Chancellor.	Viscount Gordon.
Duke of Somerset.	Lord Sundridge.
Marquis of Lansdowne.	Lord Redesdale.
Earl of Derby.	Lord Lyndhurst.
Earl Stanhope.	Lord Abinger.
Earl of Carnarvon.	Lord Campbell.
Earl Grey.	Lord Elgin.
Earl of Ellenborough.	

The LORD CHANCELLOR in the Chair.

Order of Adjournment read.

Lord *Campbell* added to the Committee Tuesday last.

The Proceedings of Friday last are read.

The *Lord Chancellor* reads a letter to the Committee from the Right hon. *J. Napier*, M. P., stating his inability to attend the Committee this day.

The Resolutions proposed by the *Lord President* are laid before the Committee.

Ordered, That this Committee be adjourned to Monday next, Two o'clock.

Die Lunæ, 7° *Aprilis* 1856.

PRESENT:

Lord Chancellor.	Earl of Ellenborough.
Lord Privy Seal.	Viscount Gordon.
Duke of Somerset.	Lord Sundridge.
Earl of Derby.	Lord Redesdale.
Earl Stanhope.	Lord Abinger.
Earl of Carnarvon.	Lord Campbell.
Earl Grey.	Lord Elgin.

The LORD CHANCELLOR in the Chair.

Order of Adjournment read.

The Proceedings of Thursday last are read.

The Right honourable *Joseph Napier*, M. P., attending, is examined, and withdraws.

The *Dean of Faculty* and *Robert Malcolm Kerr*, Esq., are called in, and examined, and directed to withdraw.

Ordered, That this Committee be adjourned to Friday next, at Two o'clock.

Die Veneris, 11° *Aprilis* 1856.

PRESENT:

Lord Chancellor.	Viscount Gordon.
Lord Privy Seal.	Lord Sundridge.
Duke of Somerset.	Lord Redesdale.
Marquis of Lansdowne.	Lord Lyndhurst.
Earl of Derby.	Lord Abinger.
Earl Stanhope.	Lord Campbell.
Earl of Carnarvon.	Lord Elgin.
Earl Grey.	Lord St. Leonards.
Earl of Ellenborough.	

The LORD CHANCELLOR in the Chair.

Order of Adjournment read.

The Proceedings of Tuesday last are read.

The following witnesses are called in, and examined: viz., The *Lord Justice Clerk* and The *Lord Justice General.*

Ordered, That this Committee be adjourned to Thursday next, at Two o'clock.

Die Jovis, 17° *Aprilis* 1856.

PRESENT:

Lord Chancellor.	Earl of Ellenborough.
Lord President.	Viscount Gordon.
Duke of Somerset.	Lord Redesdale.
Marquis of Lansdowne.	Lord Lyndhurst.
Earl of Derby.	Lord Abinger.
Earl Stanhope.	Lord Elgin.
Earl of Carnarvon.	Lord St. Leonards.
Earl Grey.	

The LORD CHANCELLOR in the Chair.

Order of Adjournment read.

The Proceedings of Friday last are read.

The following witnesses are called in, and examined: The Right honourable The *Master of the Rolls* and Vice-Chancellor Sir *John Stuart.*

Ordered, That this Committee be adjourned to Monday next.

Die Lunæ, 21° *Aprilis* 1856.

PRESENT:

Lord Chancellor.	Earl of Ellenborough.
Lord President.	Viscount Gordon.
Lord Privy Seal.	Lord Sundridge.
Duke of Somerset.	Lord Redesdale.
Marquis of Lansdowne.	Lord Lyndhurst.
Earl of Derby.	Lord Abinger.
Earl Stanhope.	Lord Campbell.
Earl of Carnarvon.	Lord Elgin.
Earl Grey.	Lord St. Leonards.

The LORD CHANCELLOR in the Chair.

Order of Adjournment read.

The Proceedings of Thursday last are read.

The Lord *St. Leonards,* a Member of the Committee, is examined.

The following Resolutions are moved, and agreed to:—

"1. That it is expedient to make provision for more effectually securing the efficient exercise of the functions of the House as a Court of Appellate Jurisdiction.

"2. That the Appeals should be heard by not less than three Members of the House, such Members to attend the sittings thereof in their robes, and to deliver their opinions sitting."

The following Resolution was then moved:—

"3. That for the purpose of securing the services of a sufficient number of fit persons on the hearing of Appeals, it is expedient that Her Majesty should be enabled to appoint three persons who respectively shall, for the period of five years at least, have filled high judicial offices in the United Kingdom, and on whom Her Majesty may be pleased to confer or may have conferred the title and dignity of a Peer for life, or who shall otherwise be Members of the House, and from time to time to fill up any vacancy in the said office; and that the office shall be held by the same tenure as the office of a Judge; and that every such person shall receive out of the Consolidated Fund a yearly salary of 5,000*l.*, or such yearly sum as with any pension to which he may be entitled for past services will make up a yearly income of 5,000*l.*, so long only as he shall hold the said office; and where any such title or dignity shall have been conferred, he shall have the right to sit and vote in the House, and all the other rights and privileges of a Peer of Parliament during his life: Provided always, that not more than four persons having received such appointments have seats in the House at one time as Peers for life."

When it is moved by the Earl of *Derby* to amend the same by inserting the words "under the title of Lord High Justices of Appeal," after the word "appoint" in line 3, and also to insert the words "of a Lord High Justice of Appeal" after the word "office" in line 9.

Objected to. Upon question:—

Content.	Not Content.
Duke of Somerset.	Lord Chancellor.
Earl of Derby.	Lord President.
Earl Stanhope.	Lord Privy Seal.
Earl of Carnarvon.	Marquis of Lansdowne.
Earl Grey.	Earl of Ellenborough.
Earl of Aberdeen.	Lord Sundridge.
Lord Redesdale.	Lord Campbell.
Lord Lyndhurst.	
Lord Abinger.	
Lord Elgin.	
Lord St. Leonards.	

The Resolution, as amended, is then agreed to.

The following Resolutions are then moved and agreed to:—

"4. That The House should be enabled to authorise its sittings to be resumed or continued for the hearing of appeals only, at such times as may be deemed expedient for the exercise of the Appellate Jurisdiction, notwithstanding the prorogation of Parliament.

"5. That in all other respects the functions of the Lord Chancellor, and the rights and privileges of the whole body of the Peers, shall remain unaffected.

"6. That the attention of The House be directed to the suggestions in the evidence for the diminution of expense, and the prevention of delay in the appellate proceedings."

Moved, that these Resolutions shall form the basis of the Report. Upon question, agreed to.

Ordered, That this Committee be adjourned to Tuesday, the 6th May, at Three o'clock.

Die Martis, 6° *Maii* 1856.

PRESENT:

Lord Chancellor.	Viscount Gordon.
Lord President.	Lord Sundridge.
Lord Privy Seal.	Lord Redesdale.
Duke of Somerset.	Lord Lyndhurst.
Marquis of Lansdowne.	Lord Brougham and Vaux.
Earl of Derby.	Lord Abinger.
Earl Stanhope.	Lord Campbell.
Earl of Carnarvon.	Lord Elgin.
Earl Grey.	Lord St. Leonards.

The LORD CHANCELLOR in the Chair.

Order of Adjournment read.

The Proceedings of the 21st of April are read.

The Committee proceed to draw up their Report, based upon the Resolutions adopted on the 21st April, and the following paragraphs are moved and agreed to:—

"That the Committee have met, and, in pursuing the important inquiry entrusted to them, have examined several of the leading Counsel employed in the business of Appeal at your Lordships' Bar, and subsequently the Lord Justice Clerk, the Lord Justice General of Scotland, the Master of the Rolls, Vice-Chancellor Stuart, and Lord St. Leonards.

"Among these witnesses there appears to be a very general agreement as to the expediency of retaining the Appellate Jurisdiction of The House, and in this view the Committee entirely concur.

"Although some of the witnesses have stated that the working of the present tribunal is perfectly efficient and satisfactory, and testimony has been generally borne to the wisdom and impartiality with which the law has been administered by it, yet there is a great preponderance of opinion in favour of some change in the manner in which the appellate business of the House of Lords is at present conducted.

"The principal objections raised by the witnesses against the present constitution and practice of this ultimate Court of Appeal are as follows:

"1. That none of the Law Lords, except the Lord Chancellor, being bound to attend, there is an uncertainty as to the number of those Peers who may assist at the hearing of any case; and that the attendance of Peers who, from want of professional knowledge and experience, decline to interfere in the proceedings, takes away from the solemnity of the tribunal, and leads to misconception on the part of the public, when their presence is only required in order to make a House.

"2. That delay, sometimes inconvenient to the suitors, and prejudicial to the regular administration of justice, is caused by The House not being able to sit during the whole of that portion of the year during which the inferior Courts are open.

"3. That the administration of Scotch law has been at times unsatisfactory from the want of familiarity with the Scotch law, consequent upon the Law Lords being exclusively English Judges.

"4. That there is an unnecessary expense attending some of the forms of proceeding.

"5. That the mode of delivering judgment, and the absence of official dress, deprive the House of the solemnity which attends ordinary judicial proceedings."

Ordered, That this Committee be adjourned to Thursday next, at Twelve o'clock.

Die Jovis, 8° *Maii* 1856.

PRESENT:

Lord Chancellor.	Viscount Gordon.
Lord President.	Lord Sundridge.
Duke of Somerset.	Lord Redesdale.
Marquis of Lansdowne.	Lord Lyndhurst.
Earl of Derby.	Lord Brougham and Vaux.
Earl Stanhope.	Lord Abinger.
Earl of Carnarvon.	Lord St. Leonards.
Earl Grey.	

The LORD CHANCELLOR in the Chair.

Order of Adjournment read.

The

The Proceedings of Tuesday last are read.

The following paragraph is then moved and agreed to:—" The Committee have carefully considered the various suggestions that have been made to them, with a view of meeting these objections; and they have to submit the following as the conclusions to which they have come:"

The following paragraph is then moved:—" 1. It appears from the evidence, that for the last 10 or 15 years the appeals have been heard sometimes by as many as four Law Lords, sometimes by three or two, and instances have been adduced where appeals have been heard and decided in this House, with advantage to the law, and satisfaction to the public, even by the Lord Chancellor alone. Your Committee are, however, of the same opinion as the majority of witnesses, that, considering the importance of the causes brought to this ultimate Court of Appeal, and the possible number of Judges who may have given judgments in the inferior Courts from which the appeal is made, appeals should be heard by not less than three Members of the House;" and the same is considered and postponed.

The following paragraph is then moved:—" As the Lords holding the proposed offices would be entrusted with judicial duties of the highest importance, and as the Committee believe experience to afford the only sure test of the fitness of even eminent lawyers for such duties, they would further recommend, that persons who have held some high judicial office in the United Kingdom for not less than five years should alone be eligible for these appointments."

When it is moved by the *Lord Chancellor* to amend the same as follows:—After the word " years " in line 5 to insert the words, " or the office of Lord Chancellor."

Upon the question:—

Content.	Not Content.
Lord Chancellor.	Lord President.
Duke of Somerset.	Earl of Derby.
Marquis of Lansdowne.	Earl Stanhope.
Lord Sundridge.	Earl of Carnarvon.
Lord Abinger.	Earl Grey.
	Viscount Gordon.
	Lord Redesdale.
	Lord Lyndhurst.
	Lord Brougham and Vaux.
	Lord St. Leonards.

The following paragraph is then moved:—" 2. With respect to the delay which now occurs in hearing Appeals, from the sittings of The House not being co-extensive with the sittings of the inferior Courts, the Committee advise that The House should be enabled to authorise its sittings to be resumed or continued for the hearing of Appeals only at such times as may be deemed expedient for the exercise of the Appellate Jurisdiction, notwithstanding the prorogation or dissolution of Parliament."

On question that the paragraph be agreed to, it is moved by the Lord *Redesdale* to leave out all the words after " Committee," in line 3, for the purpose of inserting the following words:—" are of opinion that no constitutional objection could be taken to The House being allowed to sit for the hearing of Appeals at such times as may be deemed expedient during any prorogation or even dissolution of Parliament, if specially summoned under separate writs for that purpose only, if Parliament shall think fit to enable Her Majesty to issue the same."

On question that the original words be retained:—

Content.	Not Content.
Lord Chancellor.	Duke of Somerset.
Lord President.	Earl of Derby.
Marquis of Lansdowne.	Earl Stanhope.
Viscount Gordon.	Earl of Carnarvon.
Lord Sundridge.	Earl Grey.
Lord Brougham and Vaux.	Lord Redesdale.
Lord Abinger.	
Lord St. Leonards.	

It is then moved by the Lord *Redesdale* to omit the words " or dissolution," in the last line of the same paragraph.

On question that the words be retained:—

Content.	Not Content.
Lord Chancellor.	Duke of Somerset.
Lord President.	Earl of Derby.
Marquis of Lansdowne.	Earl Stanhope.
Earl Grey.	Earl of Carnarvon.
Lord Sundridge.	Viscount Gordon.
	Lord Redesdale.
	Lord Lyndhurst.
	Lord Brougham and Vaux.
	Lord Abinger.
	Lord St. Leonards.

The paragraph, as amended, is then agreed to.

Ordered, That this Committee be adjourned till To-morrow, One o'clock.

Die Veneris, 9° *Maii* 1856.

PRESENT:

Lord Chancellor.	Viscount Gordon.
Lord President.	Lord Redesdale.
Lord Privy Seal.	Lord Lyndhurst.
Duke of Somerset.	Lord Brougham and Vaux.
Marquis of Lansdowne.	Lord Abinger.
Earl Stanhope.	Lord Campbell.
Earl of Carnarvo n.	Lord Elgin.
Earl Grey.	Lord St. Leonards.

The LORD CHANCELLOR in the Chair.

Order of Adjournment read.

The Proceedings of yesterday are read.

The Draft Report is further considered.

The paragraph postponed yesterday is again considered, when it is proposed by the Lord *Redesdale* to substitute the following paragraphs in lieu thereof:—

" 1. It appears from the evidence, that for the last 10 or 15 years the appeals have been heard sometimes by as many as four Law Lords, sometimes by three or two; and instances have been adduced where appeals have been heard and decided in this House, with advantage to the law and satisfaction to the public, by the Lord Chancellor, or one Law Lord alone. The Committee are, however, of opinion that, considering the importance of the causes brought to this ultimate Court of Appeal, the House should, as a general rule, be able to reckon on the attendance of not less than three Law Lords to assist in the hearing of all appeals; but in making this recommendation, the Committee by no means wish to discourage the attendance of other Members of the House.

" Although during certain periods the number of Law Lords in regular attendance on the appellate business has been adequate to meet the requirements of the public and the profession, experience has proved that such attendance cannot always be relied on. Hitherto, those by whom this duty has been discharged have been for the most part ex-Chancellors. The Committee are of opinion that the attendance of others equally qualified to sit with those Peers in judgment on the decision of the inferior Courts would be best secured by the creation of other high legal offices, in connexion with the House of Lords, with such salaries as would ensure their acceptance by the most eminent Judges. The Committee are, therefore, of opinion that it is desirable that two offices should be created, to be held by two Law Lords, whose duty it should be to assist The House in the performance of its judicial duties; and they accordingly recommend that Her Majesty should be empowered to appoint two Lords to be called Lord High Justices of Appeal, with salaries attached to their offices. The Committee do not propose that these appointments should interfere with Her Majesty's power to appoint unpaid Deputy Speakers of the House."

The same is on the question agreed to, and the paragraphs substituted accordingly, when it is moved by the Earl *Stanhope*, in the first of such paragraphs, to omit the words, " but in making this recommendation, the Committee by no means wish to discourage the attendance of other Members of The House."

Upon

Upon the question, that the words moved to be omitted stand part of the Report:—

Content.	Not Content.
Lord Chancellor.	Earl Stanhope.
Lord President.	Lord Elgin.
Lord Privy Seal.	
Duke of Somerset.	
Earl of Carnarvon.	
Earl Grey.	
Viscount Gordon.	
Lord Redesdale.	
Lord Lyndhurst.	
Lord Brougham and Vaux.	
Lord Abinger.	
Lord Campbell.	
Lord St. Leonards.	

In the second of such paragraphs it is moved by the Lord *Lyndhurst* to omit the words "other high legal offices in connexion with the House of Lords," for the purpose of inserting the words "Deputy Speakers."

Upon the question that the original words stand part of the Report:—

Content.	Not Content.
Lord Chancellor.	Lord Lyndhurst.
Lord President.	Lord Abinger.
Lord Privy Seal.	Lord Campbell.
Duke of Somerset.	Lord St. Leonards.
Marquis of Lansdowne.	
Earl Stanhope.	
Earl of Carnarvon.	
Earl Grey.	
Viscount Gordon.	
Lord Redesdale.	
Lord Brougham and Vaux.	
Lord Elgin.	

After further discussion, the words "Deputy Speakers of the House of Lords" were adopted and inserted in the last line but three of the paragraph in lieu of the words "called Lord High Justices of Appeal."

The following paragraphs are then moved and agreed to:—

"3. The Committee have paid great attention to the important evidence which they have heard on the subject of the Scotch Appeals. Nearly all the witnesses who spoke to this part of the subject admit that very material advantages have been derived by Scotland in the course of the administration of the law by the House of Lords, and some of them are of opinion that it is still advisable to keep the Appellate Jurisdiction entirely distinct from the Scotch Bench and Bar; but, on the other hand, arguments were urged, with considerable force, against the anomaly of the final Court of Appeal from Scotland being so constituted as never to comprehend a Scotch Judge or any person necessarily acquainted with Scotch law. It appears that the majority of the Bar, and the Writers of the Signet in Edinburgh, are in favour of one of the members of this Appellate Court being a Scotch lawyer. It is not proved that this is the opinion either of the mercantile classes, or of the community at large in Scotland. The Committee are of opinion that no fixed and invariable rule should be adopted on this subject.

"4. The Committee recommend to the attention of The House the complaints which they have quoted above as to the unnecessary expense of some of the proceedings of The House, particularly in respect to the printing of the cases. They are of opinion that this, together with other suggestions for the prevention of delay, are questions which will be best dealt with by the Lord Chancellor and the Lords who assist him in hearing Appeals.

"5. The Committee have heard much conflicting evidence as to the best mode of delivering judgments. It is argued, on the one hand, that the great principles of law are best elucidated by separate judgments, when the Judges in the Court of Appeal differ in opinion, and that the separate declaration of opinion is satisfactory to the suitors, as proving that great attention has been paid to the cause. On the other hand it is urged, that such divisions diminish the authority of the tribunal of ultimate resort, and tend to produce uncertainty in the law, without any countervailing advantage; and the example of the Judicial Committee, where differences of opinion are not expressed, has been quoted as favourable to the deliberation being in private, and the opinion of the majority given as the collective judgment of the tribunal. The Committee are of opinion that this is a matter of discretion, which must be left to be arranged among those who hear and decide the Appeals; but they recommend that those who hear the Appeals should have leave to sit at the table, and deliver their opinions sitting.

"The attention of the Committee has been drawn to the difficulty which may, in some cases, be felt hereafter, of appointing the most fit persons to judicial offices connected with the House of Lords, if it cannot be done without conferring on them hereditary Peerages; and it appears to the Committee advisable, that any person appointed to such an office should be enabled, by authority of Parliament, to sit and vote in the House, and enjoy all the rights and privileges of a Peer of Parliament, under a Patent conferring a Peerage for life only, if the Crown may have granted, or shall grant, the same to such person in preference to an hereditary Peerage: Provided always, that not more than four persons shall have seats in the House at one time as Peers for life.

"The Committee recommend that in all respects, excepting those where change has been recommended in this Report, the functions of the Lord Chancellor and the rights and privileges of the whole body of the Peers shall remain unaffected."

It is then moved by the Earl *Grey* to insert the following paragraph:—"Your Committee have had under their consideration the question, whether, if the judicial strength of the House of Lords should be increased by the creation of two paid offices, it would not be expedient that the whole appellate business now divided between the Privy Council and the House of Lords should be brought together in the latter; it appears to Your Committee, that there are not wanting strong reasons in favour of this course, which has been recommended by some witnesses; on the whole, however, it has appeared to Your Committee, that as the Judicial Committee of the Privy Council is stated to work in a satisfactory manner, it would not be advisable to transfer its jurisdiction to the House of Lords, and they consider that it would be sufficient, without making this change, to provide that it should be the duty of the paid Deputy Speakers to give their assistance when called upon in the Judicial Committee of the Privy Council. Without interfering with their duties in concluding the appeal business of the House of Lords, it would be in the power of the Lords holding these appointments to render valuable service to the public in this manner; and as it is proposed that they should receive liberal salaries, it would be only reasonable that they should undertake this labour."

Q. 123. 326, 7. 515. 551. 567.

Upon question that the same be inserted:

Content.	Not Content.
Marquis of Lansdowne.	Lord Chancellor.
Earl Grey.	Lord President.
Lord Lyndhurst.	Lord Privy Seal.
Lord Brougham and Vaux.	Duke of Somerset.
Lord Elgin.	Earl Stanhope.
	Earl of Carnarvon.
	Viscount Gordon.
	Lord Redesdale.
	Lord Abinger.
	Lord St. Leonards.

It is then moved by the Earl *Grey* to insert the following paragraphs, viz.:—

"Your Committee are of opinion, that the paid Deputy Speakers ought to be Members of the House of Lords. They consider this to be desirable, because they believe that the assistance of the Law Lords appointed to these offices would be of great value to The House, not only in the exercise of its judicial power, but also in the discharge of its legislative duties. But Your Committee must call the attention of The House to the evidence given by Mr. Malins, as to the difficulty that would arise if no provision should be made for introducing the holders of these high offices into the House of Lords, without conferring upon them hereditary Peerages. Mr. Malins has stated, that the various reforms which have been accomplished in the administration of the law have so greatly reduced the incomes which can be made by the leaders of the Bar, that it will in future be difficult, if not impossible, for even the most distinguished lawyers to make, by their practice, such fortunes as would justify their acceptance of hereditary Peerages. Hence Mr. Malins has expressed an opinion, in which some of the other witnesses concur, that it would be advisable to grant Peerages for life to the persons appointed to these offices, whenever they do not possess adequate means of providing for their successors in an hereditary Peerage. It appears to Your Committee that this suggestion ought to be adopted, since the greatest public inconvenience must otherwise arise from either, on the one hand, incurring the risk of allowing a deficiency of fortune to stand in the way of the appointment of the fittest man that can be found to the high office of Deputy Speaker, or on the other, from conferring an hereditary Peerage on a person whose descendants would not possess the means of maintaining the station to which they would succeed. As The House has recently come to the decision that a Patent from the Crown conferring a Peerage for life only, does not entitle the grantee to take his seat in the House of Lords, it will be necessary, if the above views should be adopted, to provide some means by which the paid Deputy Speakers may become Members of the House without having hereditary Peerages conferred upon them.

Q. 291. 301.

Q. 86. 93. 97. 99. 366.

"Your Committee assume that The House will not think it right to provide for this by rescinding its recent decision, and simply recognising the right of the Crown to create Peers for life; if, therefore, the object is to be effected at all, it can only be so by legislation.

lation. If legislation is resorted to, it might be provided either that the paid Deputy Speakers should enjoy, by virtue of their offices, all the rights of Lords of Parliament, or else that Her Majesty should be enabled to confer upon them Peerages for life. To the first of these plans it seems to Your Committee to be a just objection, that a paid Deputy Speaker, who, after having faithfully served in that office for a considerable time, should find himself no longer equal to its duties, would thus be deprived, on resigning it, of the honour of being a Member of your Lordships' House. This would not only be hard upon the individual, but contrary to the public interest, since it would inevitably tend to increase that reluctance to retire which is sometimes shown by Judges when advancing age or infirmity ought to induce them to do so. Your Committee are therefore of opinion that it is desirable that an Act should be passed to enable the Crown to confer Peerages for life on persons appointed to be paid Deputy Speakers of the House of Lords.

" But it would obviously be inconvenient to legislate for this purpose, without considering whether there may not be other cases in which it would also be advantageous for the Crown to possess the power of granting Peerages for life. Hence, although this question does not come strictly within the terms of the reference made to them by The House, Your Committee consider it to be so closely and inseparably connected with the subject of their inquiry, that they will venture to submit to The House some suggestions with regard to it. In the first place, they would observe, that precisely the same reasons which render it expedient to allow the proposed Deputy Speakers to become Members of the House of Lords without receiving hereditary Peerages, apply with the same force to the Lord Chancellor. The reduction of the usual emoluments of the leaders of the Bar affects those to whom the Great Seal may be entrusted not less than the persons who might be selected for the new offices; while it is even more important, with respect to the former than to the latter, that the Crown should not be prevented from calling the ablest men who can be found into its service, by any difficulties arising from their want of sufficient fortune to accept hereditary Peerages without imprudence. Nor is this the only situation in the service of the Crown to which similar considerations apply. From the nature of our Government it is necessary that a certain proportion of the confidential servants of the Crown should sit in each House of Parliament; and in forming an administration, it is frequently found to be convenient, if not indispensable, that a high political office, together with a seat in the House of Lords, should be conferred upon a person who is not already a Peer. It appears to Your Committee to be equally for the advantage of the public, and for the credit and dignity of your Lordships' House, that there should exist as few obstacles as possible to such promotions. There can be little doubt that nothing has so much contributed to maintain the authority and character of the House of Lords as the practice which has always prevailed of bringing into it from time to time those who have distinguished themselves by their political services. But Your Committee would call the attention of The House to the fact, that in former times means existed, which are no longer available, for enabling those who were raised to the Peerage by the favour of the Crown to transmit to their posterity, with the honours conferred upon them, sufficient fortune to maintain their station. In the early periods of our history it was usual for the Sovereign to make a grant of Crown Land to any subject who was raised to high rank without being possessed of corresponding wealth; and after the alienation of the domains of the Crown was restrained by Parliament, it continued to be the practice, up to a comparatively recent period, to give large pensions or lucrative sinecures in such cases, instead of land. The salaries of the great offices of the State were also far higher in proportion to private incomes than at present, while in many of them very large but irregular emoluments were received. Owing to these various circumstances, it seldom happened that those who obtained Peerages for their political services failed to accumulate sufficient fortunes to provide for the inheritors of their honours. But the various reforms which have been effected in the last half century have altogether put an end to the facilities which formerly existed for enriching those whom the favour of the Crown may raise to the Peerage; hence, unless Peerages for life are permitted to be granted in these cases, it is to be apprehended that either, on the one hand, the public, and the House of Lords itself, will sometimes lose the great advantage which both have derived from admitting into it men selected for high political offices; or on the other hand, the very serious evil will be incurred, of increasing the number of Peerages held by persons who do not possess the means of supporting their station. In rewarding naval and military services by hereditary Peerages, a similar difficulty arises from the diminished means now possessed by the Crown of conferring wealth on those to whom it may grant honours. Your Committee believe it to be greatly for the public interest that hereditary Peerages should be granted as rewards for such services, both in the rare instances in which brilliant achievements justify Parliament in bestowing ample fortunes on the great men who have performed them, and also in the more common cases in which those who have performed good but less distinguished service, possess private fortunes sufficient for their successors in the honours conferred upon them. But it has been thought right sometimes to confer Peerages as rewards for service on persons who neither possess any considerable private fortune, nor are yet deemed to have deserved so highly from the nation as to induce Parliament to make a permanent provision for their successors. In such cases pensions have sometimes been granted for three lives, an arrangement which appears to Your Committee so highly unsatisfactory, that they cannot forbear expressing their opinion that it would be far better that Peerages for life only should be granted when those who are to receive the honour are obliged to look to the

liberality of Parliament for the means of supporting their station, and Parliament is not prepared to grant a permanent endowment.]

"Your Committee are of opinion that much advantage would arise from enabling the Crown to grant Peerages for life in all the cases which they have described, preserving, of course, untouched, the prerogative of granting hereditary Peerages as at present. They entertain no apprehension that, if the power were exercised with due discrimination and judgment, it would tend to alter the generally hereditary character of the House, or to diminish its dignity and independence. On the contrary, they are persuaded that it would contribute to maintain its dignity and authority, by affording facilities for introducing into it, from time to time, men whose presence would confer lustre upon it, without incurring the very great evil of ultimately increasing the number of Peerages held by persons not possessing corresponding fortunes. But in expressing this opinion, Your Committee feel bound to add, that they think there is so much danger that the advisers of the Crown might be tempted to abuse the power of creating Peers for life, that they would regard it as a great misfortune to the nation, if the unconditional exercise of this power by the Crown were to be sanctioned. If the practice which has prevailed for some centuries is to be departed from at all, and if, in order to provide for special objects, the Crown is in future to be enabled to grant Peerages which shall not descend to the posterity of those who receive them, Your Committee would earnestly recommend that the utmost care should be taken to limit the exercise of this power as strictly as possible to those cases which it is intended to meet. Nor does there appear to be any sufficient reason for supposing that it would be impossible, in legislating upon this subject, to guard against any serious abuse. With this view, Your Committee would suggest that it might be enacted, that Life Peerages should be granted only to persons appointed to certain offices, or to persons whose public services had given them claims to reward which had been recognised in the manner which Your Committee will presently describe. The offices which, it appears to Your Committee, might properly be regarded as qualifying those appointed to them for being made Peers for life are, first, the proposed new offices of paid Deputy Speakers; and, secondly, those high situations which are always held by Cabinet Ministers, and which might be enumerated in the Act.

"Your Committee have suggested that the reward of public services, and more especially of naval and military services, should be made one of the grounds on which Life Peerages might be granted. If this view should be adopted, it would be necessary to lay down some rule as to the circumstances under which such Peerages might be granted. Your Committee would suggest that probably the best rule that could be established would be, that the Crown should only be enabled to reward in this manner services which had already been recognised by Parliament as deserving reward. The House is aware that when a Peerage is granted for naval or military services, it has been the practice for the Crown to recommend those who have received the honour to the liberality of Parliament, which usually thereupon grants a pension, which is most commonly limited to three lives. Your Committee have already pointed out the objection to this grant of a provision, limited in duration, for an honour which is not limited in the same manner; they would also observe, that there is this further objection to the present practice, that Parliament is called upon to make provision for the support of the dignity of the new Peerage after it is created, and is thus debarred from the free exercise of its judgment. If the present mode of proceeding were modified, and if the Message from the Crown—which is the ground on which Parliament proceeds in granting a pension in support of a Peerage—were made to precede instead of to follow the creation, it appears to Your Committee that an anomaly would be obviated, and that an unexceptionable test would be obtained of the propriety of granting a Life Peerage. Whenever Parliament, in consequence of a Message from the Crown, should have consented to reward public services by a pension, it might be enacted that it should be lawful to grant a Peerage for life to the person for whom this provision should have been made."

On the question that these paragraphs be inserted:—

Content.	Not Content.
Earl Grey.	Lord Chancellor.
Lord Elgin.	Lord President.
	Lord Privy Seal.
	Duke of Somerset.
	Marquis of Lansdowne.
	Earl Stanhope.
	Earl of Carnarvon.
	Viscount Gordon.
	Lord Redesdale.
	Lord Lyndhurst.
	Lord Brougham and Vaux.
	Lord Abinger.
	Lord Campbell.
	Lord St. Leonards.

Ordered, That this Committee be adjourned to Tuesday, 20th instant, at Three o'clock.

Die Martis, 20° *Maii* 1856.

PRESENT:

Lord Chancellor.	Lord Redesdale.
Lord Privy Seal.	Lord Brougham and Vaux.
Earl of Derby.	Lord Abinger.
Earl Stanhope.	Lord Campbell.
Earl Grey.	Lord Elgin.
Earl of Ellenborough.	Lord St. Leonards.
Viscount Gordon.	

The LORD CHANCELLOR in the Chair.

Order of Adjournment read.

The Proceedings of the 9th instant are read.

The Report is then read, and agreed to, and is as follows:

"That the Committee have met, and, in pursuing the important inquiry entrusted to them, have examined several of the leading Counsel employed in the business of Appeal at your Lordships' Bar, and subsequently the Lord Justice Clerk, the Lord Justice General of Scotland, the Master of the Rolls, Vice-Chancellor Stuart, and Lord St. Leonards.

"Among these witnesses there appears to be a very general agreement as to the expediency of retaining the Apellate Jurisdiction of The House, and in this view the Committee entirely concur.

"Although some of the witnesses have stated that the working of the present tribunal is perfectly efficient and satisfactory, and testimony has been generally borne to the wisdom and impartiality with which the law has been administered by it, yet there is a great preponderance of opinion in favour of some change in the manner in which the appellate business of the House of Lords is at present conducted.

"The principal objections raised by the witnesses against the present constitution and practice of this ultimate Court of Appeal are as follows:

"1. That none of the Law Lords, except the Lord Chancellor, being bound to attend, there is an uncertainty as to the number of those Peers who may assist at the hearing of any case; and that the attendance of Peers who, from want of professional knowledge and experience, decline to interfere in the proceedings, takes away from the solemnity of the tribunal, and leads to misconception on the part of the public, when their presence is only required in order to make a House.

"2. That delay, sometimes inconvenient to the suitors, and prejudicial to the regular administration of justice, is caused by The House not being able to sit during the whole of that portion of the year during which the inferior Courts are open.

"3. That the administration of Scotch law has been at times unsatisfactory from the want of familiarity with the Scotch law, consequent upon the Law Lords being exclusively English Judges.

"4. That there is an unnecessary expense attending some of the forms of proceeding.

"5. That the mode of delivering judgment, and the absence of official dress, deprive The House of the solemnity which attends ordinary judicial proceedings.

"The Committee have carefully considered these objections raised by the witnesses, and also the various suggestions that have been made with a view of meeting them; and they have to submit the following as the conclusions to which they have come:—

"1. It appears from the evidence, that for the last 10 or 15 years the appeals have been heard sometimes by as many as four Law Lords, sometimes by three or two, and instances have been adduced where appeals have been heard and decided in this House, with advantage to the law, and satisfaction to the public, by the Lord Chancellor or one Law Lord alone. The Committee are, however, of opinion that, considering the importance of the causes brought to this ultimate Court of Appeal, The House should, as a general rule, be able to reckon on the attendance of not less than three Law Lords to assist in the hearing of all appeals; but in making this recommendation, the Committee by no means wish to discourage the attendance of other Members of the House.

"Although during certain periods the number of Law Lords in regular attendance on the appellate business has been adequate to meet the requirements of the public and the profession, experience has proved that such attendance cannot always be relied on. Hitherto, those by whom this duty has been discharged have been for the most part ex-Chancellors. The Committee are of opinion that the attendance of others equally qualified to sit with those Peers in judgment on the decision of the inferior Courts would be best secured by the creation of other high legal offices, in connexion with the House of Lords, with such salaries as would ensure their acceptance by the most eminent Judges. The Committee are, therefore, of opinion that it is desirable that two offices should be created, to be held

by two Law Lords, whose duty it should be to assist The House in the performance of its judicial duties; and they accordingly recommend that Her Majesty should be empowered to appoint two Lords to be Deputy Speakers of the House of Lords, with salaries attached to their offices. The Committee do not propose that these appointments should interfere with Her Majesty's power to appoint unpaid Deputy Speakers of the House.

" As the Lords holding the proposed offices would be entrusted with judicial duties of the highest importance, and as the Committee believe experience to afford the only sure test of the fitness of even eminent lawyers for such duties, they would further recommend, that persons who have held some high judicial office in the United Kingdom for not less than five years should alone be eligible for these appointments.

" They recommend that the office of a paid Deputy Speaker of the House shall be held by the same tenure as the office of a Judge, and that every such person shall receive, out of the Consolidated Fund, a yearly salary of £. 6,000, or such yearly sum as, with any pension to which he may be entitled for past services, will make up a yearly income of £. 6,000, so long as he shall hold the said office.

" 2. With respect to the delay which now occurs in hearing Appeals, from the sittings of The House not being co-extensive with the sittings of the inferior Courts, the Committee advise that The House should be enabled to authorise its sittings to be resumed or continued for the hearing of Appeals only at such times as may be deemed expedient for the exercise of the Appellate Jurisdiction, notwithstanding the prorogation of Parliament.

" 3. The Committee have paid great attention to the important evidence which they have heard on the subject of the Scotch Appeals. Nearly all the witnesses who spoke to this part of the subject admit that very material advantages have been derived by Scotland in the course of the administration of the law by the House of Lords, and some of them are of opinion that it is still advisable to keep the Appellate Jurisdiction entirely distinct from the Scotch Bench and Bar; but, on the other hand, arguments were urged, with considerable force, against the anomaly of the final Court of Appeal from Scotland being so constituted as never to comprehend a Scotch Judge or any person necessarily acquainted with Scotch law. It appears that the majority of the Bar, and the Writers of the Signet in Edinburgh, are in favour of one of the members of this Appellate Court being a Scotch lawyer. It is not proved that this is the opinion either of the mercantile classes, or of the community at large in Scotland. The Committee are of opinion that no fixed and invariable rule should be adopted on this subject.

" 4. The Committee recommend to the attention of The House the complaints which they have quoted above as to the unnecessary expense of some of the proceedings of The House, particularly in respect to the printing of the cases. They are of opinion that this, together with other suggestions for the prevention of delay, are questions which will be best dealt with by the Lord Chancellor and the Lords who assist him in hearing Appeals.

" 5. The Committee have heard much conflicting evidence as to the best mode of delivering judgments. It is argued, on the one hand, that the great principles of law are best elucidated by separate judgments, when the Judges in the Court of Appeal differ in opinion, and that the separate declaration of opinion is satisfactory to the suitors, as proving that great attention has been paid to the cause. On the other hand, it is urged, that such divisions diminish the authority of the tribunal of ultimate resort, and tend to produce uncertainty in the law, without any countervailing advantage; and the example of the Judicial Committee, where differences of opinion are not expressed, has been quoted as favourable to the deliberation being in private, and the opinion of the majority given as the collective judgment of the tribunal. The Committee are of opinion that this is a matter of discretion, which must be left to be arranged among those who hear and decide the Appeals; but they recommend that those who hear the Appeals should have leave to sit at the table, and deliver their opinions sitting.

" The attention of the Committee has been drawn to the difficulty which may, in some cases, be felt hereafter, of appointing the most fit persons to judicial offices connected with the House of Lords, if it cannot be done without conferring on them hereditary Peerages; and it appears to the Committee advisable that any person appointed to such an office should be enabled, by authority of Parliament, to sit and vote in the House, and enjoy all the rights and privileges of a Peer of Parliament, under a Patent conferring a Peerage for life only, if the Crown may have granted, or shall grant, the same to such person in preference to an hereditary Peerage: provided always, that not more than four persons shall have seats in the House at one time as Peers for life.

" The Committee recommend that in all respects, excepting those where change has been recommended in this Report, the functions of the Lord Chancellor and the rights and privileges of the whole body of the Peers shall remain unaffected.

" And the Committee have directed the Minutes of Evidence taken before them to be laid before your Lordships."

Ordered, That the Lord in the Chair do make the said Report to The House.

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LORDS PRESENT:

Lord Chancellor.	Viscount Gordon.
Lord Privy Seal.	Lord Sundridge.
Marquess of Lansdowne.	Lord Redesdale.
Earl of Derby.	Lord Lyndhurst.
Earl Stanhope.	Lord Brougham and Vaux.
Earl of Carnarvon.	Lord Abinger.
Earl Grey.	Lord Elgin.
Earl of Ellenborough.	Lord St. Leonards.

THE LORD CHANCELLOR in the Chair.

Evidence on the Appellate Jurisdiction of the House.

Sir Richard Bethell, M. P.

6th March 1856.

SIR RICHARD BETHELL (Her Majesty's Solicitor-General), a Member of the House of Commons, attending, is examined as follows:

1. *Chairman.*] YOU have been a long time in the habit of practising at the Bar of the House of Lords?
I have had considerable business in the House of Lords for 14 years.

2. Did you practise occasionally before that time?
Yes, occasionally, but not generally in Scotch appeals, as well as English appeals.

3. You have stated that you first practised at the Bar of the House of Lords 12 years ago. Was the judicial business of the House then conducted in a manner which you considered to be satisfactory to the suitors and the public in general?
About 12 years ago would take us back to the year 1844. I thought during the time that my Lord Lyndhurst was Lord Chancellor, of which time that year would be part, the tribunal of the House of Lords was in a most satisfactory state. The following noble and learned Lords then regularly attended: the Lord Chancellor, except sometimes on Scotch appeals, Lord Cottenham, Lord Brougham and Lord Campbell. I do not remember during that period of time, (with the exception of the case of Beattie *v.* Johnson, which was rather later), there being any difference of opinion among those noble and learned Lords in the decision of appeals. I think the conduct of the appellate business during that period was most satisfactory both in England and in Scotland.

4. You speak of the Chancellorship of Lord Lyndhurst; that would carry you back beyond a period of 12 years, because Lord Lyndhurst's last Chancellorship commenced at the end of 1841?
It is extended from 1841 to 1846.

5. Earl of *Derby.*] What you have now said relates to the period between 1844 and 1846?
Yes.

6. Are you able to speak to the whole period of Lord Lyndhurst's Chancellorship, or only to the last two or three years of it?
What I intended to convey, or would wish to convey, was this, that while the House of Lords was constituted of four most eminent learned Lords, diligently

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and constantly attending, upon whom we might count as always to be found there, the jurisdiction appeared to me to be most satisfactorily exercised.

7. Lord *Lyndhurst.*] The three noble and learned Lords you have named always attended when I was Lord Chancellor, did they not?

Yes; I think, if I recollect rightly, the Lord Chancellor constantly attended the hearing of English and Irish appeals. Lord Chancellor Lyndhurst was occasionally absent when the House sat upon Scotch appeals; but whenever the House sat upon Scotch appeals, I think Lord Cottenham, Lord Brougham and Lord Campbell made it a rule to attend; I am speaking of the general practice; there might be occasionally an exception.

8. *Chairman.*] That carries your opinion down to the judicial end of the year 1846; Lord Lyndhurst ceasing to be Chancellor about the end of July?

Yes.

9. Going on from that time in the course of the year 1847, was there any alteration, and do you think that the administration of the judicial functions of the House as a Court of Appeal became less satisfactory?

If I remember rightly, after that period of time Lord Cottenham frequently presided alone in the House, and I must confess that I think the presiding of one Judge, or even of two Judges, cannot be attended with satisfaction in the final administration of justice.

10. Lord Cottenham's Chancellorship extended to the latter part of 1850; he was succeeded by Lord Truro, who was Lord Chancellor during the year 1851; what, in your opinion, was the state of the Court then?

Lord Truro, I think, generally, had the assistance of Lord Brougham, and occasionally, I think, of Lord Campbell; there were several important cases argued; but I think it will be found that during the short Chancellorship of Lord Truro there were not many judgments given by the House of Lords; I cannot pledge myself that I remember perfectly; I may be inaccurate, but my impression with regard to that period is, that the conduct of the judicial business of the House was less satisfactory than during the Chancellorship of Lord Cottenham.

11. In the year 1852, Lord St. Leonards was Lord Chancellor; what Peers attended the hearing of appeals then, generally speaking?

Lord Truro attended as often as he was not prevented by illness; Lord Brougham, I think, attended pretty regularly; I do not think any others attended, with the exception of the Lord Chancellor St. Leonards.

12. Do you happen to remember whether Lord Truro was very often prevented from attending?

I think he was frequently.

13. On the occasions when he did not attend, the same objection existed with regard to there being only two Judges present, which had struck you during part of the time of Lord Cottenham's Chancellorship?

The Committee will, I am sure, forgive me; it is difficult to pledge one's recollection upon matters of this kind, and it may turn out that I am inaccurate; not being aware that my attention would be directed to this point, it is difficult to state the facts with accuracy.

14. If it should turn out that there were only two, I suppose the administration of justice at that time, in your opinion, would be open to the same objection which you have expressed as applicable to Lord Cottenham's Chancellorship?

Yes.

15. We then arrive at the period when I was appointed Lord Chancellor; what is your opinion of the state of the Court at present?

I must say that my dissatisfaction with the administration of justice in the House of Lords has increased during the last two years, but that arises principally from the circumstance that whenever the noble and learned Lords who constitute the tribunal differed in opinion, they did not reserve the matter for further consideration; they did not strive to attain to unanimity of judgment, but they made their differences of opinion public; frequently the appeals failed,

and

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and in many cases great injury was done by unsettling the law; I remonstrated on several occasions, and called the attention of the House more than once to the precedent afforded by the case of Beattie and Johnston, which laid down the rule that when there was a difference of opinion, the appeal should be adjourned for further argument; that application to the House was not attended to, and I think in eight or nine cases the appeal failed by reason of the difference in opinion between the noble and learned Lords.

16. You do not mean, do you, that in eight or nine cases the House was equally divided, but that in those cases there was a difference of opinion expressed?

Yes. In a place like this, I speak of course frankly, as your Lordship has invited me to speak. Let me give to the Committee the following instances: there was a very great and important cause, it involved the decision of a great number of others; it involved a question which has been greatly litigated; it was heard by the Lord Chancellor, and Lord St. Leonards; they differed in opinion; those opinions were given in the House; the appeal failed; that is to say, the judgment of the Court below, which was in contradiction of the judgment of one of the other Courts of Westminster Hall, was affirmed; and the whole law upon that subject, therefore, is unsettled by reason of the opposition between those two opinions. The case of Shortbridge and Bosanquet was decided by the Court of Exchequer. Then the Master of the Rolls made a decree in favour of the plaintiff in his Court, who had failed in the Court of Exchequer. There was a direct opposition between the two judgments; an appeal was brought to decide the question. Other cases in the Court of Chancery were postponed to abide that appeal; we hoped to settle the law by it, but it left the law in a worse state than before. Another case relating to Lord Lyndoch's entail was a case in which there had been great differences of opinion in the Court of Session; it was appealed to this House. It stood for judgment, having been heard by three noble and learned Lords: one of them gave a judgment affirming the decision in the Court below; another said, that he was not aware that the case stood for judgment, but he concurred with what he had heard; another noble and learned Lord then read a very elaborate opinion.

17. Earl of *Derby.*] Differing from the other two noble and learned Lords?

Yes. In that state of things it appeared to me that it would naturally have presented itself to the noble and learned Lords to have adjourned that case for further consideration.

18. Lord *St. Leonards.*] Was not my opinion overruled, there being two noble and learned Lords against me?

Yes; one noble and learned Lord stating, that he was not prepared to give judgment.

19. Lord *Brougham.*] Was not what he stated this, that he had heard the case, and concurred in the reasons which had been given?

Yes.

20. Lord *Lyndhurst.*] He was not aware that judgment was to be given on that day?

No, and therefore was not prepared to give judgment.

21. Lord *St. Leonards.*] He was taken by surprise by the judgment coming on; but he had made up his mind upon the point, and therefore was prepared to accede to the Lord Chancellor's views; was not that the effect of what he stated?

I did not so understand that case, instead of being reserved for further consideration, was so decided. Another circumstance which I would particularly mention, as affecting my own satisfaction with the House as a Court of Appeal, is the mode of delivering judgment. A noble and learned Lord, when he applies himself to the duty of giving a judgment, stands up and addresses the House as if he were arguing before a deliberative assembly. Frequently he slaps the table with energetic action, precisely as if he were arguing a matter to be enforced before the House in its ordinary sittings. The judgment, therefore, is not delivered either with the gravity or the dignity with which it ought to be delivered, or with the measured expression of language in which I think the judgments of this high tribunal ought to be expressed.

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22. Does the quality of the judgment to which you have referred correspond to the manner which you condemn?

I should be very sorry, sometimes, if those judgments were taken down and printed *literatim*; but they undergo frequently a process of condensation and correction, which prunes them, and removes that which may arise from the energy with which they are delivered.

23. By whom is that process effected?

Sometimes by the noble and learned Lord himself, I am told.

24. Earl of *Derby.*] Are the Committee to understand that, in your opinion, it would be more satisfactory if written judgments were in every case delivered?

Yes. And one judgment only.

25. *Chairman.*] As is the case in the Judicial Committee?

Yes. The reputation of the Judicial Committee has never been at all affected by any differences of opinion being made generally known. In the inferior tribunals, it is desirable that you should have the opinion of each Judge. In the tribunal of the last resort, it is most desirable that there should be but one judgment, and that the opinions expressed in that judgment should be delivered without evidence of their being weakened by any dissent.

26. Lord *Lyndhurst.*] The judgment should be that of the majority, without the mention of any difference of opinion?

Yes.

27. Lord *Brougham.*] Is not it usual in the Judicial Committee, that when there is a difference of opinion, the learned Judge who delivers the judgment states that the majority of the Lords are of that opinion, indicating that there is a difference?

As far as my recollection extends, while your Lordship was in the habit of attending the Judicial Committee, that was not so—but I will not undertake to say that I can recollect accurately—latterly, it has been so.

28. Lord *Lyndhurst.*] When the Judges attend the House, if there is a difference of opinion, each Judge gives his own separate opinion, does not he?

Yes.

29. And it is only when they are unanimous that the opinion is given by the senior Judge?

I understand that to be the rule.

30. Lord *St. Leonards.*] They very frequently differ in opinion, do not they?

Very frequently.

31. Lord *Lyndhurst.*] So that the course pursued by the Judicial Committee stands, as it were, alone?

Yes; it stands alone, certainly, at present.

32. Lord *St. Leonards.*] Is there any Court in which the Judges differing in opinion delegate to one, even though the head of the Court, the duty of delivering judgment unanimously in the name of the whole?

No, and very rightly; because there is no Court but the House of Lords and the Privy Council which are final Courts of Appeal.

33. *Lord Privy Seal.*] The conflicting opinions given by several Judges in the Court below you think are to be regarded as materials for the final judgment?

Yes, it is their bounden duty to express their opinion, for the party has a right to carry the case to a higher tribunal.

34. But the final judgment should carry with it the whole weight of the Court?

Yes, when it is a Court of final resort.

35. Lord *Brougham.*] Does not it strike you that it is, to a certain degree, practising a deception upon the profession and the public, if four Judges differing, and therefore deciding by a majority of three to one, represent their judgment as the judgment of the Court, whereby the inference would be justified that it was the unanimous judgment of the Court?

I do

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I do not admit that that conclusion is a proper conclusion of fact. Wherever there is a body constituted of more members than one, formed upon the principle of the majority binding the minority, the minority, I conceive, particularly in a subject of that nature, should give way to the majority; and in order to accomplish the great end of having certainty and no element of uncertainty in the law, one opinion only should be given, and it should be expressed to be the opinion of the Court.

36. Earl *Grey*.] Are the Committee to understand, that in the Judicial Committee of the Privy Council, the Committee deliberate in private as to what their judgment shall be, and then it is delivered in public, so that any difference of opinion does not appear?

Exactly so.

37. And you think, if the House of Lords were to deliberate in private, and settle what the judgment should be, and to depute one Peer to deliver it, that would be an improvement upon the present system?

A very great improvement.

38. *Lord Privy Seal*.] You look upon the final judgment in such a case as in fact making the law?

Yes.

39. And you would draw an analogy, therefore, between the position of this final Court, making the law by interpretation, and a majority of Parliament, which legislates and makes the law in another sense, there being a minority dissenting in many cases?

The analogy is not quite perfect, because the end is not the same. In your Lordships' House you recognize the right of the minority to protest, to dissent, and to record the grounds of its dissent; and those grounds very frequently become the foundation on which the majority at a future period of time arrives at an opposite conclusion. There is no analogy between a deliberative body and a judicial body; the object is different, and the end of the two institutions is different. I am seeking to attain, through the medium of the House of Lords, the great ends of certainty and fixedness in the law.

40. Earl of *Derby*.] Is not there this distinction, though it is rather a technical one than otherwise, between the Judicial Committee of the Privy Council and the House of Lords sitting in their appellate character, that the one is a Committee reporting to the body from whom their authority proceeds, and the other is the supreme body itself?

In theory there is that distinction, in practice there is none: for although the Judicial Committee reports, it is a mere solemnity, a mere figure, because the judgment proceeds from Her Majesty.

41. Nevertheless, the one is a report of a Committee to the body from which the Committee emanates; the other is a decision of the body which retains the power in itself, according to the present theory?

There is that distinction.

42. Lord *Lyndhurst*.] In the Judicial Committee, it has sometimes happened, I understand, that the majority having been of one opinion, and the judgment having been written and delivered, the individual who differed from the majority has declared that he differed, without giving reasons. As there is a considerable disparity very often in the character of Judges, supposing the person who differs does not give his reasons, but happens to be the member of the Court in whom the public has the highest degree of confidence, will not that tend to shake the character of the tribunal?

Very much so; and it would be a thing much to be deprecated; but I have never known the practice pursued, save by one member of the present Judicial Committee. It no doubt gives rise to difficulty; and your Lordships remember the expression of Chief Justice Vaughan, who said, "If this is to be decided *numero haud pondere*, it must go so and so."

43. Lord *St. Leonards*.] You seem to assume that when the law Lords differ, they have no communication together previously to delivering their opinions, when opposed to each other; have you the means of knowing whether that is the case or no?

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I have neither said so, nor assumed so. I stated that I thought it was desirable that they should reconcile those differences, and not show them to the public.

44. Supposing they endeavour to reconcile them, as in fact they always do, and they cannot do so, what would you have them do?

He that is in the minority should abstain from delivering any opinion.

45. Lord *Brougham.*] You have been asked whether it might not happen that a written judgment should be given by the majority, there being a difference of opinion on the part of the minority; is not it the constant practice in the Judicial Committee to have the judgment written and considered by all the Lords of the Committee, altered and varied by them, and ultimately given as the judgment of those who have considered the matter?

I have heard that that is the rule; I believe it to be a most admirable one. Your Lordship knows all that has taken place on the subject. We generally understood that when the Judicial Committee was first appointed, that rule was laid down, and, I believe, at the suggestion of your Lordship.

46. Has not it been announced, on the part of the Judicial Committee, that that is the rule?

Not to my knowledge.

47. Earl of *Derby.*] In order to carry out your opinion as to the necessity of the minority giving way to the majority, would you consider it essential that the Court, in all cases, should consist of an uneven number?

I think it would be better that the Court should consist of five members. I think it would be more desirable that the Court should consist of an uneven number, though, practically, when they are equally divided, the judgment appealed from being thrown into the scale has the same effect as if the tribunal were of an uneven number.

48. Supposing the judgment appealed against be the judgment of the Lord Chancellor himself, who has overruled a decision in the Court below, and that the Lord Chancellor is sitting in this House with one other law Lord,—the judgment of the Court below, that is, of the Lord Chancellor in his single capacity, being affirmed in consequence of there being a difference of opinion between himself and the other noble and learned Lord in this House,—in that case the Lord Chancellor, practically, decides in his own favour against the judgment of the Court below, and the opinion of his colleague in this House?

I think, in a tribunal so constituted, the result of such a case would be very unsatisfactory.

49. That is a case which not only may arise, but does arise, is it not?

That identical case, as your Lordship has put it, I do not remember to have arisen in fact; that it might arise any day is quite clear.

50. Is not it the fact that, within a very recent period, the Lord Chancellor and one noble and learned Lord have sat in the House upon an appeal against a decision of the Lord Chancellor in the Court below?

Yes.

51. In that case, supposing the judgment to be delivered by one noble and learned Lord, the other abstaining from delivering an opinion, should you consider that the law was definitively and satisfactorily settled?

Certainly not.

52. *Chairman.*] Would that be remedied if there were three, four or five Judges sitting instead of two?

Yes, I think so.

53. Lord *Lyndhurst.*] There are very few appeals now from the Lord Chancellor, are there?

The present Lord Chancellor heard in the Court of Chancery during Michaelmas and Hilary Terms a great number of appeals; therefore there may be several appeals from his judgments. Ordinarily speaking, there are not many appeals from the judgment of the Lord Chancellor, because he has not an opportunity of sitting often in the Court of Equity.

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54. Lord *Brougham.*] As the business now stands in the Court of Chancery, is it not perfectly possible to carry it on without there being any arrears, by means of the Lords Justices, the Vice-Chancellors and the Master of the Rolls, without the necessity for the Lord Chancellor ever sitting there at all?

It is quite possible.

55. Has not there been such an increase of late years in the judicial force of the Court of Chancery by the appointment of two additional Vice-Chancellors and two Lords Justices, and by the Master of the Rolls hearing two or three times the number of causes he used to do formerly, as to render it possible that the Lord Chancellor, without the risk of any arrears in the Court of Chancery, might never sit in that Court at all?

I think it is; we have a practical proof of that in the circumstance that the Lords Justices, recently having disposed of the whole of the appellate business, are now hearing original causes.

56. They having been in their original appointment intended as Judges of Appeal rather than to sit in any other capacity?

The main object was to hear appeals.

57. Earl of *Derby.*] You said that you considered it desirable that the Court should consist of three or five or an uneven number; would you consider it desirable or undesirable that the number should be more than five?

If there were five members constantly sitting and bound to attend, I think that would be sufficient for every purpose of this great Appellate Tribunal.

58. Do you think a smaller number than five, the number of three for instance, would not be more satisfactory than a number larger than five, say seven. If you had to choose between the certainty of three, or the possibility of seven, which should you consider more desirable, a Court consisting of three or not more than five, or a Court consisting of a number varying from three to seven?

It would depend very much upon what I may call the quality of the individuals; assuming them all to be of first-rate intellect and attainments and attention, I would prefer three to seven.

59. Would not you be more likely to obtain the assistance of three men, such as you describe, than of seven?

It is more easy to get three first-rate men, than to get seven first-rate men.

60. Lord *Sundridge.*] Having reference to the importance of securing certainty of attendance, do you think it would be easy to secure that certainty, which is so essential an element, without having considerably more than three?

I think it would be perfectly competent in this country, with the great sources which you have from whence to draw your supply, always to have in the House of Lords five men of the greatest attainments, the greatest intellect, and the greatest experience in the law. I should prefer five to any other number.

61. Lord *Brougham.*] When you speak of its being easy to obtain very eminent men in this country, do you mean men who have been in judicial situations, or who still are in judicial situations, or thirdly, who neither have been nor are in judicial situations?

I should prefer to feed the Appellate Tribunal from men who have been in judicial situations; because I find from experience, that it is impossible to predicate of an advocate at the Bar, however eminent he may be, what his judicial qualities will be.

62. Is not there this difficulty in having men who have filled judicial stations, that they must be of a somewhat advanced age before they have resigned their judicial situations?

I think not; I think seven, eight or nine years' experience in a Court below is quite a sufficient test and criterion by which to judge of a man's judicial ability. The Lord Chancellor, in the recent appointments to the Bench, has selected, with the unanimous approbation of the whole profession, in one or two instances, men who I think are under 45 years of age. Supposing those gentlemen to have had 10 years' experience at 55, and to be drafted into this House at 55, I think they would be at a time of life when there is the highest vigour

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of intellect, and a great amount of experience, and when you may reasonably expect the highest fitness for the discharge of the duties of an Appellate Judge.

63. *Lord Privy Seal.*] You propose that they shall fill paid offices, as it were, do you not?

I object very much to the constitution of the House of Lords, because the law Lords may be called gratuitous members of the tribunal; they are not bound to attend; they frequently do attend, but sometimes do not attend; they feel themselves at liberty, as I said in the House of Commons, to attend the tribunal or not to attend. I think that a most vicious principle in the constitution of the present Appellate Tribunal; therefore I would have them paid that they may be under an obligation to attend, and feel it their duty to attend at the argument throughout, precisely as if they were Judges in one of the Courts of Westminster Hall; and therefore I would have them clothed with judicial habiliments, in order that there may not be so much readiness and quickness in going in and out of the House.

64. You would have them Judges of Appeal sitting in the House of Lords?
I would have them Judges of Appeal sitting in the House of Lords.

65. And members of the body?
Yes.

66. *Chairman.*] Do you mean that they should be Judges sitting in the House, not being otherwise Members of the House?

I would give them the character of Peers for all purposes in the House. I think they would be a most valuable addition to the House, though it is not my province to speak of that in its deliberative character.

67. Lord *Brougham.*] You speak of the propriety or the necessity of Judges hearing the argument throughout; do you mean to state that any Judge in the House of Lords ever gives a judgment in a cause without hearing the argument throughout?

Yes.

68. In what case has that occurred?

I will mention one; in Shortbridge *v.* Bosanquet I opened the appeal, and spent a day in doing so. One of the noble and learned Lords who decided against my argument was not present during that opening. He applied to my junior the next day for a note of my arguments. I did not repeat those arguments in the reply, because it is not my habit to do so. In the reply I meet the arguments which have been raised against me; yet, nevertheless, judgment was given by that noble and learned Lord, though the argument of the appellant's leading counsel was not heard by him. That is one instance; there are several others.

69. Will you mention any others?
Portions of the argument are frequently not heard.

70. What do you mean by portions of the argument?

A noble and learned Lord may probably desire to go out of the House to see a person, or to talk to a person. A Lord comes into the House with whom he wishes to have conversation; he goes and joins in the conversation with that noble and learned Lord, though the counsel is speaking the whole of the time; he would not do so if he had a wig and gown on, and was placed in a chair to hear and decide.

71. Have you ever been in the Court of Queen's Bench?
I have heard they talk occasionally.

72. Do not the Judges go out of the Court from time to time, for a quarter of an hour at a time, and come in again?
I do not know.

73. Are you not aware that counsel sometimes repeat the same argument more than once, twice or thrice, and that learned Lords having heard it two or three times may think there is no great occasion for hearing it a fourth?

I will give you a remarkable instance of that. A noble and learned Lord once sat in the evening in the Court of Chancery, and now and then he nodded.

Somebody

Somebody said to him, "How came you to do so?" "Why," he said, "it mattered not; for when I awoke I always found the counsel at the same point where I left him when I went to sleep." *Sir Richard Bethell, M. P.* 6th March 1856.

74. Lord *St. Leonards.*] When the Judges attend the House of Lords, does it occur to you that they give more attention to the arguments at the Bar than is given to those arguments by the law Lords?

It is impossible to answer that question; it is a question of external demeanour; a man's mind may be far away.

75. You complain of the want of attention to the arguments at the Bar; I think the complaint is not well-founded; I believe there never was greater attention given to arguments by any Judges who ever sat than, speaking generally, has been given during the time you have been in practice at the Bar of the House to the arguments of counsel?

Your Lordship is very sedulous and careful in your attention.

76. *Lord Privy Seal.*] The defects in the manner of conducting appeals in the House of Lords you do not bring forward, I understand, with any reference to individuals, but as being defects which are incidental to the position which the law Lords occupy?

They necessarily arise.

77. The want of formality in their costume, and in the places they occupy, and there being no necessity for their attendance to the specific duty of the office they fill, contribute to those defects?

Yes; I see repeatedly that one who is called a lay Lord comes into the House; he has no difficulty, though in the middle of the argument, in coming up to the Lord Chancellor and addressing him, and putting any question to him, and thus calling away his attention.

78. Lord *Lyndhurst.*] Unless it is something which passes off in a moment, does not the Lord Chancellor intimate a wish to the counsel that he will suspend his argument?

He does so constantly; the law Lords sit on the benches, and any other noble Lord who comes in sits down by their side, and naturally enters into conversation with them.

79. Earl of *Derby.*] Are you of opinion that there is any effect produced for good or for evil by the presence of lay Lords in the House, in the event of the law Lords not amounting to the number of three?

To those who come in, and know the constitution of the House of Lords, the only effect, I think, is this, it casts a ludicrousness upon the whole proceeding; upon those who are ignorant of the rule it also produces an evil result, because they come in and see what are called the lay Lords, one of them probably reading a book, another writing letters; if they happen to sit together they are conversing; and upon an uninformed spectator the impression would be that they are not attending to their duty.

80. Lord *Brougham.*] Does not all the world know, except very illiterate persons indeed, that it is the law Lords who really constitute the Court?

I do not think that is generally known; nay, it was only very recently that your Lordships knew it; it is not generally known.

81. Marquess of *Lansdowne.*] Did you ever know an instance of a lay Lord taking part, or attempting to take part, in the consideration of a judgment?

I never personally saw anything of the kind.

82. Earl of *Derby.*] Do you conceive that in the administration of justice there can arise any advantage whatever from the casual presence of those lay Lords who take no part in the proceedings?

Not the least.

83. Lord *Lyndhurst.*] Is it not rather an embarrassment to the counsel who are addressing the Court to find a part of the audience not attending to what is going on?

We have discharged ourselves of that impression altogether, and therefore, to us, they are as so many lay figures.

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84. Lord *Brougham.*] With respect to the attendance of the law Lords before 1850, did not Lord Campbell become Chief Justice in 1850?

I think that was the year.

85. Did not he attend pretty regularly, just as he had done during Lord Lyndhurst's last Chancellorship, from 1842 to 1850?

It is exceedingly difficult for me to speak accurately from memory; the impression on my mind is, that he was not so regular in attendance when Lord Cottenham was Chancellor as he was when Lord Lyndhurst was Chancellor; but it is a matter which it is very difficult to recollect.

86. Lord *Lyndhurst.*] Will you have the goodness to state a little more fully how you would wish the tribunal to be constituted; you think it should consist of five learned Lords, but how should it be constituted; should they be five hereditary Peers?

Individually, I should think there would be no objection to the creation of official Peerages for that purpose; I should prefer, as far as my judgment extends, to have the tribunal thus constituted: the Lord Chancellor at its head, as the great responsible head of the law; four other members bound to attend: if any of the ex-Chancellors will undertake the obligation of permanently and constantly attending, such ex-Chancellor or ex-Chancellors to be one or more of the body of four; but I deprecate throwing on any ex-Chancellor the obligation of permanent attendance merely because he has once been Lord Chancellor; if he desires to become a member of the Committee, he should have a remuneration for that permanent duty.

87. In addition to his pension?

Yes. Then I would add to them such a number of Peers, selected from the most eminent men in the Courts below, as would make up a constant number of four; but if the ex-Chancellors did not elect to become permanent members, there should still be the power in the House to resort to their services as members of the Committee when it might be deemed desirable. I would give the Committee the power of summoning, as assessors, any of the Judges, either of Law or Equity, or any of the Judges in the Court of Session in Scotland, as well as the Judge of the Admiralty Court and the Judge of the Consistory Court, or any Court which may administer that law.

88. Lord *Brougham.*] They should be summoned as the twelve Judges are now summoned?

Yes; they might not be all summoned as a body, but two or three or four might be summoned, and that might extend to the Court of Session in Scotland.

89. Lord *Lyndhurst.*] Supposing, in addition to the Lord Chancellor, four official Peers are created for the purpose of administering justice, and the ex-Chancellors who might choose to attend, however learned, are to be excluded, how are they to increase the number of the tribunal to five?

I would not have them required to attend, neither would I have them in attendance, unless their attendance was desired by the permanent body.

90. Lord *Brougham.*] Are you aware that in the Judicial Committee of the Privy Council, the members of it, without being summoned, consider they have an undoubted right to attend, and occasionally have attended, without being summoned?

I did not know that that was the case with regard to the Judicial Committee; on the contrary, what I said proceeded upon the notion that the Judicial Committee was regulated in the manner I have described; that those members only attended who were summoned for the purpose; if that is not so, it would alter my view of the case.

91. Lord *Lyndhurst.*] It is usually considered that any member of the Judicial Committee has a right to attend, whether summoned or not; the members are merely summoned for the purpose of ensuring an adequate number to form a Court?

If so, I would say that the ex-Lord Chancellors should have the right of attendance.

92. Earl of *Ellenborough.*] If you constituted official Peerages, would not the persons holding them have official duties to perform which would prevent their always coming to the House of Lords?

I do not contemplate that they should have official duties elsewhere, but that the House should be the single Court of Appellate Jurisdiction, and should absorb the jurisdiction of the Privy Council.

93. *Chairman.*] When you use the term official Peerages, do you refer to persons holding any great judicial situations actually existing, such as Chief Justices or Lords Justices; and do you mean that they should *ex officio* be members of this House; or do you mean that there should be certain Lords of Appeal, who should have official Peerages?

The latter is my meaning.

94. Earl of *Derby.*] And they should receive a salary during the period they hold those Peerages?

Yes.

95. Lord *Brougham.*] Do you mean that the official Peerage should cease with the office; that they should be Peers, say for 10 years, while they were members of this Court, and that then they should cease to be Peers?

That would be a question for the House to consider; individually, I should undoubtedly prefer that a Peer who had discharged his duty as an Appellate Judge should remain a member of the body of the House of Lords.

96. Earl of *Ellenborough.*] For what period would you create the official Peerage; how is the Peer at any time to cease to hold his office?

Precisely as one of the Lord Chief Justices does now; he would cease to hold the office by resignation.

97. Lord *Lyndhurst.*] Suppose he were to resign his office, is he still to continue to be a Peer?

I think it better that he should.

98. In that case would there not be a superabundance of law Peers in the House: there would be the acting Lord Chancellor, three ex-Chancellors, the four judicial persons, and the Peers who had retired from that office?

I think you might adopt this qualification, that a Judge should not retain his seat in the House of Lords unless he had been a member of the tribunal so many years.

99. You recommend that they should be Members of the House for all purposes, for legislative purposes as well as for judicial purposes?

Yes; because I desire that this jurisdiction, which is now vested in the House of Lords, should by no means be taken away from it either in reality or by the Court of Appeal, being so constituted as to be something different from the House. I wish the House of Lords to discharge the functions of the great Appellate Tribunal for the whole empire, and I desire that they should be discharged by Peers. If there be a difficulty in getting a sufficient number of lawyers because they may hesitate in accepting hereditary Peerages, I think, for such a great purpose as that, there may be introduced, with great propriety, a variation from the existing rules.

100. Earl of *Derby.*] When you spoke just now of calling in the Judges as assessors, would you propose to give them, as assessors, merely the right of advising and assisting, or the right of voting and determining?

Merely the right of rendering their advice to the House.

101. With or without the power of putting questions to counsel?

I think questions to counsel should be put only by members of the tribunal.

102. Earl of *Ellenborough.*] Would you allow the Judges, in cases where they differed in opinion, to express those differences of opinion in public?

Yes. When a Judge attends as an assessor, he answers only the question which is put to him, and does not give any advice or any opinion till it is required; that is very different from a sentence being given by a member of a tribunal competent to sit in judgment.

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103. Lord *Sundridge.*] Your objection to the expression of a difference of opinion on the part of the House of Lords does not apply to a difference of opinion on the part of the Judges who are consulted by the House?

Not at all; they give their opinions merely; the House is to determine.

104. Lord *Redesdale.*] Would you recommend that one of the four official Peers should be a Scotch Judge?

It is very difficult to answer that question. In theory I have always thought that a Peerage was due as a matter of right to the Scotch Bench and Bar; and I thought such a Scotchman, as I have frequently met with many, would be of the greatest possible assistance to the Appellate Tribunal in England; but, having frequently stated that opinion in public, I have, to my surprise, found that it is so far from being accepted or echoed in Scotland, that, on the contrary, the Scotch appear to be almost unanimous, as far as I can understand, in deprecating any such thing. They seem to think, that if a member of the Appellate Tribunal were a Scotchman, all the decisions on appeals would, in Scotland, be attributed to that individual, and their judgments would lose the weight and authority which they have now.

105. Lord *Lyndhurst.*] Have you reason to know that that has been the opinion in Scotland, from what you have heard for a number of years past; have you ever heard Lord Eldon refer to that as being the opinion in Scotland?

No; I am speaking from my personal experience in this way: in the year 1846, I think it was, I first suggested such a step being taken; a communication was made to that effect, I think to Lord John Russell; there was some discussion on the subject, but I found no support given to that idea. I mentioned the subject in the House of Commons last August; I received, during the vacation, numerous letters from Scotland, and numerous extracts from newspapers in Scotland, all of which appeared to be one way, namely, opposed to the carrying out of any such notion.

106. Earl of *Derby.*] In the distribution of these judicial official Peerages, do you contemplate doing justice to Ireland, by the introduction of any retired members of the Irish Bench?

I should think it would be perfectly right that it should be open, as unquestionably it would be open, to the Government, or whoever has the selection, to select from the Irish Bench, as well as from the English Bench.

107. Lord *Redesdale.*] What do you consider would be the effect upon the position of the Chief Justices, in the event of offices of this kind being created, to which would be attached Peerages in this House; would not it rather make such offices superior to those of the Chiefs in the Courts of Common Law?

There would be no other precedency; the only effect in point of precedency would arise from the addition of so many more members to your Lordships' House. I do not think it would have any other effect.

108. Would not the offices of themselves appear to be more honourable than the offices of the Chiefs of the Courts of Common Law if to the tenure of those offices was attached the right to sit in this House?

I think very likely they may be the objects of ambition to the Chief Justices.

109. A Chief Justice would be ready, you think, to accept one of those offices in preference to retaining the office of Chief in his Court?

It is possible, but they would be less valuable in point of emolument.

110. Lord *Lyndhurst.*] Have you ever considered whether the House of Lords can summon the Judges from the Courts of Equity to attend in the same way as they can summon the Judges of the Courts of Common Law?

It is difficult to speak of any power the existence of which can only be ascertained by usage. When a power is ascertained by usage, usage determines the legal limits of that power. You have not been in the habit of summoning the Judges of the Courts of Equity, and therefore I should think it doubtful whether you could, with propriety, usurp such a power.

111. The Judges attend upon the summons of the House in consequence of having what is called a writ of assistance. Have you considered whether or not that writ of assistance may be extended to Judges of the Equity Courts?

I certainly

I certainly think that no writ can be lawfully issued where there is no precedent for such a writ in ordinary usage. *Sir Richard Bethell, M. P.*

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112. It requires usage to support it?
Yes.

113. Lord *Redesdale.*] Do not you believe that the Queen's writ of the same character as is issued to the Judges could be issued to any Privy Councillor?
I should be very sorry to advise that such a writ should be issued; I should be very sorry to advise the issuing of any writ for which there was not authority in daily and ordinary examples.

114. Are you aware that Privy Councillors are mentioned in our Standing Orders as parties who may be summoned?
I have no doubt, according to the true constitutional theory, all those who were in the habit of surrounding the person of the Sovereign, might be properly required by the Sovereign to attend him in Parliament; and that would extend to Privy Councillors; but all those matters are now matters of usage and custom.

115. Earl *Grey.*] You have expressed a strong opinion in favour of having a tribunal consisting of five Judges. Is not it the fact that in some former times, when the judgments of the House of Lords were of the highest authority, those judgments were practically given by a single Judge?
If there be a single Judge who, by the common consent of mankind, embodies the highest qualities of a Judge, then the decisions of that individual, being uniform, certain, definite and clear, would be of the highest possible value; precisely as if you had an arbitrary government, with absolute authority vested in a man of the highest possible moral and intellectual perfections, one would desire to live under that government rather than any other. But it is so difficult to obtain such a man, and still more a succession of such men, that it is impossible, particularly in the case of a tribunal which has causes brought before it from all quarters of the globe, involving all possible questions, to suppose that one individual will at all times be equal to the satisfactory determination of such a vast and multitudinous assemblage of subjects; therefore it is that we desire a greater number of minds than one, in order that some may supply what is wanting in the others.

116. Practically, since the Revolution, have not the periods when the judgments of the House of Lords have stood highest, been those when they have been given by one person?
Individually, I should say not. I think Lord Eldon was frequently most materially assisted, and on some occasions corrected, by Lord Redesdale. I think Lord Eldon had great satisfaction in the presence of Lord Redesdale. I do not even think Lord Hardwicke's judgments are entitled to be regarded as the most satisfactory; and if Lord Eldon and Lord Hardwicke could not accomplish that end, I think we may say that it is not the case that there ever was a time when one man alone presided and gave universal satisfaction.

117. Lord *Brougham.*] Did not Lord Mansfield's judgments give satisfaction when he presided in the House of Lords?
They were not numerous.

118. Earl *Grey.*] Is there not great danger, if the tribunal were increased to so large a number as five, of dividing the responsibility among the different persons composing it, and so weakening the authority of the tribunal?
No, I think not; it exists in the Court of Queen's Bench, in the Court of Exchequer, in the Court of Common Pleas, and in the Judicial Committee of the Privy Council. Looking at the experience of all ages and all foreign countries, I do not know a single foreign country which trusts the ultimate determination of its law to a tribunal composed of one, or two, or three.

119. Earl *Stanhope.*] Supposing the Appellate Court to be constituted as you propose, and supposing one of its members to be at any time disabled by illness, or otherwise prevented from attending, how would you proceed; would you wish the other four to proceed without him, or should his recovery be awaited?
They must of necessity proceed without him, unless his place could be supplied by an ex-Lord Chancellor. The same thing takes place now in the Court of Queen's Bench.

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120. Is not it an occurrence which might be frequently anticipated, that in a body of five, illness or domestic affliction or other causes might deprive the Court of the service of one of its members?

We do not find that to be so to any great extent in the Courts of Westminster Hall; and I should suppose this tribunal would not sit more than five days a week. I do not think it would be desirable that it should do so.

121. *Lord Privy Seal.*] What is the constitution of the Court of Cassation in France, as respects its number, and also as respects the judgment given, being the judgment of the whole Court, without the expression of a difference of opinion on the part of the minority?

The members of the Court of Cassation are very numerous, and there are generally, I think, a considerable number present; I believe the judgment is one judgment only; that the Judges confer together, and then give judgment.

122. Lord *Brougham.*] Are you aware that the judgments of the Court of Cassation are not taken to be of authority in similar cases arising almost immediately afterwards; that they do not fix the law?

That is a misfortune, I think.

123. Earl of *Derby.*] I understood you to express an opinion, that it was desirable that the House of Lords, as the Court of Appellate Jurisdiction, should absorb the functions at present exercised by the Judicial Committee of the Privy Council?

I think so. Although, practically, there have been very few cases of inconvenience, yet I think it is, in theory, a great objection that there should be two co-ordinate final Courts of Appeal. With respect to the Judicial Committee of the Privy Council, there is this great inconvenience, that no one can tell now at what time it will sit. It sits at odd times. Sometimes we have three or four days of the vacation taken up by sittings of the Privy Council; so that it is a Court which really has no regular time of assembling. You cannot tell of whom it will be composed, or when it will sit. These, I think, are great objections to a final Court of Appeal; and it is partly to prevent such things that I should humbly suggest that the Privy Council (which, though it has been a most satisfactory tribunal, yet is, as it were, a thing of yesterday, and only introduced because the House of Lords was not at that time equal to the whole appellate business) should merge in a tribunal, the sittings of which, and the composition of which, would then become perfectly certain and well known, so that there should be one tribunal for the whole empire.

124. With regard to the constitution of the Judicial Committee of the Privy Council, so far as it partakes of those elements of uncertainty to which you have just referred, it is open to the same objections as the House of Lords?

Very much so. A suitor comes to your brass gates, and before they open, he knows not by whom his cause will be heard, whether by one Lord, or by two, or by three.

125. The Judicial Committee of the Privy Council, the Committee understand you to say, is open to the same objection?

Yes; from the uncertainty of knowing who will be there, or when it will sit.

126. Are you of opinion that the Lord Chancellor and five Members of the House of Lords, during the ordinary sittings of the House of Lords, could carry on the whole of the appellate jurisdiction, hearing all the cases of appeals which now come before the House of Lords, and those which now come before the Judicial Committee of the Privy Council?

No, I think not; but I think it most desirable on every ground that the House of Lords should be open as a final Court of Appeal during the regular portion of the year devoted to judicial business; and I speak of that for another reason. Repeatedly, by decisions in the Court of Chancery, things have been fixed as law, which never would have remained law if there had been a possibility of coming promptly to the House of Lords. That I may make that intelligible to your Lordship, who has been good enough to put the question, I may say that a most important point of law may come on to be discussed upon a motion for an injunction in the month of August: that injunction is granted. There is no possibility of having that question determined by the Court of ultimate appeal until probably the following February. The party against whom it is granted

is

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is ruined if he has to submit to the injunction during all that interval of time. He is compelled therefore to make terms, or to submit to something which ought not to have been done, simply because your House is closed during that long interval of time: It is impossible to maintain that. If you choose to retain the functions of a great Appellate Tribunal, you must open your doors to the suitors of the country in the same manner in which the doors of the ordinary tribunals are open.

127. What is the difference in point of time between the ordinary recess of the House of Lords, and the ordinary recess of the Courts of Justice?

The difference would be from the 1st of November till the 1st of February.

128. Lord *Brougham.*] Would not the difficulty you suggest with regard to injunctions apply, unless the House of Lords were to sit, not only as long as the Court of Queen's Bench, the Common Pleas and the Exchequer, namely, with an interval of three months only, but even unless there were no such interval of vacation: the party against whom an injunction is issued would be equally ruined if he did not in those three months have it recalled, or if he were not ruined, he must, in order to his ruin, come to terms?

It is perfectly true that my suggestion only has the effect of reducing six months' denial of justice to three months' denial of justice. But it is better to deny justice for the shorter time than for the longer.

129. Would not the same objection apply if the interval were only three days: supposing the House of Lords only had a vacation of three months, there would be those three months during which the injunction would subsist?

It is possible to carry that to an excess; you might on that principle require a Judge to sit up all night. There must be a limit to it, of course.

130. Lord *Lyndhurst.*] Applications for injunctions are generally made to the Vice-Chancellors, and then there is an appeal to the Lords Justices. Therefore, though you would not have the final appeal, you would have the first appeal; and if the decision of the Vice-Chancellor were confirmed by the decision of the Appellate Tribunal of the Lords Justices, there would probably be strong reason to believe that the decision was right?

A great number of injunctions were granted by Lord Cottenham, which the profession would have been very glad if they could have subjected to the control and supervision of another tribunal.

131. Lord *Sundridge.*] Your scheme proposes, does it not, that it should be in the power of the House to call in the Scotch Judges as assessors?

Yes.

132. You pronounce no opinion as to the introduction of a Scotch Judge as a Peer into the House; you only report what you understand to be the feeling in Scotland?

My impression would be very much in favour of having a Scotch Peer; I express my own opinion, but it is one which I have no support in.

133. *Lord Privy Seal.*] Have you reason to believe, from your experience of the Judicial Committee of the Privy Council, that the one member of that tribunal, who has a special acquaintance with the subject at issue, is considered to be supreme in that case, and the judgment is supposed to be only his judgment, and not that of the whole body?

I have never seen anything of the kind, nor have I ever heard any such opinion stated.

134. Therefore, you think it possible that that apprehension would disappear before the facts?

I find nothing to justify the entertaining such an apprehension from experience.

135. Lord *Brougham.*] You say you would have the jurisdiction transferred from the Judicial Committee of the Privy Council to the House of Lords; is it not understood that one great advantage of the constitution of the Judicial Committee is the power which it gives of obtaining the assistance of Judges of various kinds, according to the nature of the cause to be heard; for instance, Equity Judges if it is a case of appeal from a Court of Equity, Common Law

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Judges if it is in the nature of a writ of error, and Consistorial Judges or Admiralty Judges if it is an appeal on such matters; is not that regarded as one of the great advantages of the constitution of the Judicial Committee?

No doubt it is an advantage; but I think the House of Lords would have a corresponding or even greater advantage in its power to summon the Judges as assessors. I think it more desirable that the ultimate Court of Appeal should be constituted of permanent Judges, than of Judges gathered together for the nonce.

136. You would not have it composed of Equity Judges, Common Law Judges and Consistorial Judges, so making it parallel to the Judicial Committee; but you would have it composed of four able and learned men, who have judicial experience, sitting under the Lord Chancellor, and applying for help occasionally to the other Judges only as assessors?

Yes. I hope, in a few years, that lawyers in this country will be equally conversant with law and with equity, and that you may not be divided hereafter into two classes of men, both of them one-eyed, one having an eye for law, and another an eye for equity. But while that distinction continues, I think the number of Judges will give you an opportunity of selecting from all sources competent and able men.

The Witness then put in the following Scheme for the Appellate Tribunal, as proposed by him:

1. The House of Lords to exercise its Appellate Jurisdiction through the medium of a Judicial Committee composed of Peers.

2. The jurisdiction and functions of the Judicial Committee of the Privy Council to be vested in the Judicial Committee of the Lords, so that there may be (in the House of Lords) one single uniform Appellate Tribunal for the whole Empire.

3. This great Court of the House of Lords to be open during five days in every week throughout the year, except the usual vacations as observed by the Court of Chancery.

4. The Court, when sitting, always to be constituted of the Lord Chancellor, as President, and four other Members, *i. e.*, of the Committee. Five to be the quorum.

5. Peers who have filled the office of Lord Chancellor to be *ex officio* Members of the Committee; and if any one of such Peers will engage regularly to attend the sittings of the Committee, he is to be a permanent Member, and entitled to a salary of £. , in addition to his retiring pension.

6. Official Peerages to be conferred on such a number of eminent lawyers as may be necessary to make the Committee consist of four permanent Members, in addition to and besides the Lord Chancellor and any ex-Lord Chancellor, *not being a permanent Member*, who may think proper to attend. One of the permanent Members to be taken from the Scotch Bar or Bench.

7. The Committee to have power to summon all or any of the Judges of the Courts of Law and Equity. The Testamentary and Admiralty Courts in England, and Court of Session in Scotland, to sit as assessors of the Committee.

8. Each permanent Member of the Committee, not being the Lord Chancellor or an ex-Lord Chancellor, to receive a salary of £. 5,000 per annum, from which any retiring pension is to be deducted.

9. Every official Peer to have the full privileges of a Peer of Parliament during his office (or life).

10. Any petition or application to the Crown which, according to present practice, may be referred by Her Majesty to the Judicial Committee of the Privy Council, may be referred by Her, in like manner, to the Judicial Committee of the House of Lords.

11. The practice and rules of procedure of the House of Lords as an Appellate Tribunal to be revised and simplified; and all applications now made to the Standing Committee on Appeals, to be heard and determined by a Committee of three Members of the Judicial Committee, who shall meet for that purpose once in every week during the sittings of the Committee.

The Witness withdraws.

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SIR FITZROY KELLY, a Member of the House of Commons, attending, is examined as follows:

137. *Chairman.*] YOU have been very much in the habit of practising at the Bar of the House of Lords?

I have had almost constant practice in the House of Lords for 15 or 16 years; I may say that my frequent and almost continual practice commenced with the Chancellorship of Lord Lyndhurst, in the beginning of the session of 1842.

138. During

138. During Lord Lyndhurst's Chancellorship, from the beginning of 1842 to the end of 1846, the Committee understand that the Lords who attended the hearing of appeals were Lord Lyndhurst, and, generally, Lord Brougham, Lord Cottenham and Lord Campbell?

That is so.

139. During that period what is your general impression as to the administration of the Appellate Jurisdiction of the House of Lords?

During the period of Lord Lyndhurst's second Chancellorship, that is from 1842 to 1846, both inclusive, I think the administration of justice in the House of Lords was beyond all exception; the tribunal consisted of the four noble and learned Lords whose names have been mentioned, Lord Lyndhurst, then Lord Chancellor, Lord Brougham, Lord Cottenham and Lord Campbell; either the whole of the four, or three at least, invariably attended, and whether the whole four were present, or whether three only of those four noble and learned Lords attended, I think it was impossible for any one to except in any way to the administration of justice. I believe—rather differing in my recollection from what I heard fall from the Solicitor-General—that the practice was rather this: that Lord Lyndhurst, with two other noble and learned Lords, sat during two out of four days in the week, and Lord Cottenham and two other noble and learned Lords during the other two days in the week. Lord Campbell and Lord Brougham attended uniformly; and I may say, that both Lord Campbell and Lord Brougham, as well as to some considerable extent Lord Lyndhurst, but especially Lord Campbell and Lord Brougham, having had much experience in the argument of appeals from Scotland at the Bar of the House of Lords, the tribunal really had all the assistance which was necessary in determining Scotch appeals as well as in other causes which came before the House of Lords.

140. Lord Lyndhurst's Chancellorship having terminated at the end of 1846, what is your opinion as to the mode of administering the judicial business in the following Chancellorship?

From that time till 1849 inclusive, the administration of justice was still, I think, open to no objection. Lord Cottenham was then Lord Chancellor; he was always assisted by Lord Campbell and by Lord Brougham, and was frequently assisted by Lord Lyndhurst; so that still the same four, with the change only in the individuals filling the office of Lord Chancellor, continued till the end of 1849, in fact till the beginning of 1850, when Lord Campbell was appointed Lord Chief Justice. Lord Campbell from that time ceased to attend regularly or frequently the judicial sittings of the House of Lords, and that certainly made a very considerable difference; for Lord Lyndhurst also not so frequently attending from that time (if I may be pardoned for alluding to it), as he increased in years, the only two noble and learned Lords who then constantly attended were Lord Cottenham and Lord Brougham. I may observe that in those three years, 1847, 1848 and 1849, when Lord Lyndhurst's Chancellorship had ceased, and Lord Cottenham's Chancellorship had commenced or had been resumed, no objection could be made to the mode in which justice was administered. No one can doubt the entire competence to discharge all the functions of a Judge in the highest Court of Appeal of either Lord Cottenham or Lord Brougham; but I do not conceive it possible that any human tribunal, being a tribunal of the last resort, consisting of two Judges only, can ever administer justice so as to satisfy the public.

141. In the year 1850, was not it also the case that Lord Cottenham's health was such, that during that year he very frequently could not attend?

That also operated; and during the year 1850, the only appeals which were determined, speaking personally to my own satisfaction, were those which were determined by Lord Brougham sitting alone in the House of Lords. I think, though it is not a fit course, nor one which can be satisfactory in a tribunal of the last resort, it is better that such a tribunal should consist of one than of two Judges. Lord Brougham then decided many Scotch cases; one I remember particularly of extraordinary difficulty and complication, and of very great importance; he determined it, I believe, to the entire satisfaction of that portion of the public who interest themselves in such proceedings. Almost all the Scotch appeals during the year 1850, when Lord Cottenham's health began to fail, and Lord Campbell had gone to the Court of Queen's Bench, and also the Scotch

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appeals during a great part of the year 1851, were decided entirely by Lord Brougham alone, and I believe decided very satisfactorily. I speak quite impartially; I was very often on the unsuccessful, and sometimes on the successful side; but they were far better decided by one Judge than they have ever been since by two: that brings us to the year 1851. Then Lord Truro became Lord Chancellor. He was appointed Lord Chancellor at the end of 1850, and during the Session of 1851, the Peers who attended were Lord Truro and Lord Brougham. Then again there were only two effective Judges constantly attending; and whenever two Judges alone have sat, I do not say they did not decide rightly—for aught I know, they may always have decided rightly—but such a tribunal never can work satisfactorily to the public. Then comes 1852, when Lord St. Leonards became Lord Chancellor. Then again there was constant uncertainty in the tribunal. There were some very important cases argued, and I have no doubt well decided, but there were only Lord St. Leonards and Lord Brougham, with occasionally Lord Campbell, in attendance. Lord Truro did occasionally attend, but very rarely, and there really was no satisfactory administration of justice; it would have been far better that Lord St. Leonards, the Lord Chancellor, should have sat alone, and I have no doubt his decisions would have been perfectly satisfactory to the whole Bar and to the people; but sitting with one other noble and learned Lord, or with a third, Lord Truro, who had never had the least experience in Scotch cases at the Bar, and had not given much attention to them since he had become Lord Chancellor—had not, I mean, been long enough Lord Chancellor to acquire that knowledge of Scotch law which may be acquired by a lawyer, after becoming a Peer, merely from his experience in the House of Lords, the administration of justice again became very unsatisfactory. Then came 1853, when the present Lord Chancellor took the Great Seal. During 1853, 1854 and 1855, there have been, substantially speaking, but three noble and learned Lords who have even frequently attended. Lord Truro very rarely attended indeed. Of course Lord Lyndhurst has not been able to attend very frequently. There has been my Lord Chancellor, whose attendance has been uniform and constant; Lord Brougham, of whom almost the same may be said; very frequently, also, Lord St. Leonards; sometimes, also, Lord Campbell. But again, there have been only two on whose attendance reliance might always be placed, and to whom, therefore, suitors and the Bar might look as being sure of their attendance, namely, the Lord Chancellor and Lord Brougham; and with all the knowledge and experience, and with the high eminence and the confidence of the public in those two noble and learned individuals, again, I say, the tribunal consisting only of two has been open to objection, and has not given satisfaction.

142. Can you suggest any remedy for the defects to which you have referred? In presuming to offer any suggestion to the Committee, I should act as I always do, as far as it is practicable upon experience. During the 30 years that I have practised at the English Bar, I have had experience in tribunals consisting of all numbers, from 1 to 15, and indeed, I may say, up to 18; I have come to the conclusion founded upon experience, that in the first place it would be very rash indeed to form a judgment upon such a subject *à priori*. I think it impossible for any one, *à priori*, to determine of what number either a tribunal of original jurisdiction or a tribunal of appeal can most effectively consist; therefore, rejecting all theory and conjecture, and looking only to practical experience, and indeed, I may say, to my own personal experience, I am not only of opinion, but, speaking of course only for myself, I may venture to say I am satisfied that a tribunal of original jurisdiction, where there is an appeal, should consist of one, and of one only; I say so because the number one almost of necessity implies undivided attention, and a sense of undivided responsibility, which I think essential to the due administration of justice. But passing from a tribunal of original jurisdiction, which is not now in question, to a Court of Appeal of the last resort, and the same experience being taken as my guide, I think the number five is the best number of which such a tribunal can consist. In the first place, I say so because we have experience of that number (with some occasional exceptions and varieties), in what I must say for myself, after having practised there almost constantly, at least I may say very frequently, in all descriptions of causes, common law, equity, colonial law, foreign law, especially Indian law, of the most complex character, is as near

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near perfection as any human tribunal can be; and I really do not think it possible that any Court of Appeal in the last resort could be constituted in this country which could give greater satisfaction or more perfectly administer justice than the Judicial Committee of the Privy Council.

143. Lord *Brougham.*] Is not the number attending the Judicial Committee more frequently four than five?

No; it is generally five. I have known it four, and even then the administration of justice was perfectly satisfactory.

144. Lord *Sundridge.*] You have not the element of certainty as regards the Judges who attend the Judicial Committee, have you?

No. It is of the essence of a perfect tribunal which has jurisdiction over causes of a constantly varying character, and involving different systems of law, that there should be the power of shifting and changing the constituent members of the Court. In cases of common law, they generally summon one or two Chief Justices, or ex-Judges, being Privy Councillors; in cases of equity, they summon the Lords Justices or the Vice-Chancellors; in cases of Indian law, they have a very able and eminent man, Sir Edward Ryan, who is familiar with Indian customs and Indian law; and again upon appeals from the Ecclesiastical Courts, they summon the Judge of the Prerogative Court, or of the Admiralty Court; so that the tribunal always consists of the best men in England to determine the particular cause which is to be heard and decided.

145. Do you conceive it to be possible to transfer that system to the House of Lords?

Quite possible. And what I most earnestly desire is, that the same system should be adopted in the House of Lords, as nearly as may be; certainly not concurring with the Solicitor-General, who has preceded me, in wishing to abolish the Judicial Committee of the Privy Council, because that would be to sacrifice the very best Court in existence, in favour of one which as yet is untried.

146. Would not such a plan necessitate the having a large number of Peers learned in the different branches of the law, who might be called in alternately, according to the nature of the cause to be heard?

I do not think that it would necessitate the creation of official Peers, or of any other description of Peers than those which now exist. With respect to the Privy Council and the number of the Judges being four, I do not think it makes any practical difference whether the number is four or five. I think four quite enough, and I only think five better because sometimes, though very rarely, it would happen that the four would be equally divided. It is then unseemly to let the judgment stand merely because there is an equal division of opinion in the tribunal of the last resort. The only other alternative is, that the case should be re-argued; and for that there is no necessity where there is a complete and competent tribunal of five. I think, therefore, the number of five is preferable to four for that reason, and for that reason only; but, judging from experience, five is the number which would constitute the most effective tribunal which can exist in this country.

147. Lord *Brougham.*] You prefer five to three?

I prefer five to three, for many reasons; an accident may take away one of the three. Again, if the three differ in opinion, there will be only two to one; and we must remember that the cause may have come to the House of Lords, having been decided by the Court of Queen's Bench one way, and the Exchequer Chamber, with only five Judges, the other; or, by one or two of the Vice-Chancellors one way, and then upon appeal by the Lord Chancellor, the other; so that the number of opinions either way may be equal, or there may be an inequality, and the majority may have been the unsuccessful Judges in the decision. In that state the case comes by appeal before the House of Lords; there might have been then two Judges one way, namely, in favour of the judgment, and four Judges against the judgment. Suppose the tribunal here to consist of three, and supposing even two of those three to agree with the two Judges below, there are then but four in favour of the judgment, and there are five against it, and yet the judgment is maintained; that, I think, should not be.

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148. Earl of *Derby.*] Would not that apply to a division of three to two among five?

That would rarely happen; but if it did happen there would be three at least of the supreme tribunal who would affirm or reverse the judgment; in the other case there might be two. Without being able to say, for no man can say, *à priori*, why three should be better than two, or two than one, we have the experience of a tribunal which has consisted of five (I am speaking of the Judicial Committee of the Privy Council), which has sat ever since 1833, a period therefore of 21 or 22 years; and I do not believe any single decision which has ever been pronounced by the Judicial Committee has met with otherwise than general assent and satisfaction.

149. Lord *Brougham.*] Does not it strike you that four, in ordinary cases, is a better number than five, on this account, that you can have the decision of the Court of Appeal, the final decision, by a majority at least of three to one?

Opposed to that is the danger of having two to two; I think that evil is greater than the advantage of having three to one. The course, then, which I would venture to suggest to the House of Lords would be, in the first place, not to part with its jurisdiction, but to retain its own jurisdiction exactly as it now exists. I apprehend that there is already the power in the House of Lords to summon all Privy Councillors, as well as to summon all the Judges. If there be no such power, it ought, I think, to be conferred upon the House of Lords; and with the power in the House of Lords to summon to its assistance as few or as many among the Privy Councillors of England as might be thought fit for each particular cause, it would be enabled to do as the Judicial Committee of the Privy Council does, namely, to take care, knowing the nature of all the causes beforehand, to summon a sufficient number with the law Lords, who should notify their intention to attend, to make up the number of five.

150. Lord *St. Leonards.*] Would you allow them to vote?

Not in the sense in which the word "vote" is generally understood. I would have the tribunal when assembled consist, I will suppose, of two law Lords and three Privy Councillors, not Peers. I would fix five as the number of the tribunal, with certain exceptions, which I will mention by and by. If five were the number of the tribunal, I would have it understood conventionally, just as it is now understood by the House, that it is the majority of the law Lords who decide all judicial appeals, that the report of the opinion of the majority of those five should be the judgment of the House of Lords. I would have the tribunal consist of five, the Lord Chancellor being always one, if he be able to attend; at all events there should be one or two law Lords, the rest being made up of Privy Councillors, summoned by the Lord Chancellor according to the nature of the cause, so as to constitute a tribunal of five.

151. *Chairman.*] You would have three Privy Councillors summoned to sit with two law Lords, one of them being the Lord Chancellor. Suppose the three Privy Councillors take one view of the case, and the Lord Chancellor and the law Lord take a different view, is the House to give as their judgment that to which no member of the House has agreed?

I think so; I think whatever may be the tribunal, it is the majority of that tribunal which should guide the House, exactly as it is the majority of the Judicial Committee of the Privy Council which guides the Queen in making the order which she does in point of form there.

152. Lord *Brougham.*] Does not it strike you that that would be not the judgment of the House of Lords, but of the three Privy Councillors, and that, therefore, the House of Lords could not be said to act in its judicial capacity at all?

It would be as much the judgment of the House of Lords as the judgment which is pronounced now by a single law Lord is, though it may be against the opinions of 40 other Peers, who are present; it is conventionally only that it can be done at all; either there must be life Peers or official Peers, or there must be a great addition to the number of Peers as they now exist, or some assistance must be given to the law Lords who now decide upon Judicial Appeals, and the House of Lords.

153. Marquess

153. Marquess of *Lansdowne.*] Are the Committee to understand you to propose that the same Privy Councillors should always be summoned, being named beforehand, or that the House of Lords should vary the individual Privy Councillors according to the particular nature and complexion of the cause?

I am far from thinking that they should always be the same; on the contrary, I think it should be the business of the Lord Chancellor, who knows beforehand from the printed papers delivered what is the nature of the appeal which is to come on upon a particular day, to ascertain which of the law Lords besides himself will attend upon the argument of that appeal. If five law Lords should intimate an intention to attend, there would be no occasion for summoning any more at all. We know that the law Lords must be presumed to be capable, and, according to my experience, have been capable, of deciding any cause which can possibly come before the House of Lords. If four only should attend, I propose that the Lord Chancellor should summon from among the Privy Councillors the one who was most competent to deal with the particular question. If three law Lords should attend, let two Privy Councillors be summoned; if two should attend, let there be three Privy Councillors; if the Lord Chancellor sat alone, let there be four Privy Councillors summoned.

154. Earl of *Derby.*] You would look upon that tribunal so constituted as being a Committee *ad hoc* who should report to the House of Lords, the House of Lords pronouncing their judgment, founded upon the Report of that Committee?

Precisely; I would have the tribunal really to decide; but in theory it would be only a Committee whose report was to guide the House of Lords in deciding the question.

155. Precisely as in the case of the Judicial Committee of the Privy Council?

Yes; it is not the Judicial Committee who decide the cause; the Committee report to Her Majesty, and Her Majesty decides the cause; it is the Queen's judgment: so the Committee here, consisting of five, might report to the House, and then some noble Lord would move the judgment of the House accordingly. It would be the judgment of the House, just as in the Privy Council it is the judgment of the Queen.

156. Lord *Brougham.*] Might not you say, strictly speaking, that in the Court of the King, before the King himself, which means the Court of King's Bench, it is the King who is the Judge?

It may be said to be so; but those are mere words.

157. Lord *Sundridge.*] Would not there be this essential distinction between the plan which is now followed in the Privy Council, and that which you are proposing, that the Judicial Committee is really a Committee of the body of which they are members; whereas in the case you propose, the members of the tribunal would not be members of the House?

There would be that difference, but it is only a difference of form. The real and substantial question is, what is to be the tribunal whose judgment, or the judgment of the majority of whom, will administer justice in the most satisfactory manner to the people.

158. Lord *Lyndhurst.*] What would be the objection to allowing those Privy Councillors who attend to vote?

That is a question for the House of Lords; I think, substantially speaking, they ought to vote. The first question I should humbly submit for this Committee to determine is of how many members should the tribunal, in order to be most effective, consist. If the number should be five, from whom are the five to be selected. According to my opinion, they ought to be selected from the Privy Councillors of England, because among the Privy Councillors, including the law Lords, who are Privy Councillors, you have the most competent men that England contains to decide such questions of law as might be brought before this House. If the number of Judges, Privy Councillors, be insufficient, a third Lord Justice might be created, and four or five Puisne Judges made Privy Councillors.

159. Are not you aware that in the old times the assistants did vote as Members of the House?

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I was not aware that they had ever actually voted in the House; but by whatever name the thing is to be called, the substance of it is, in my opinion, that the number should be five, that the tribunal should consist of the five best men in England, to decide the particular cause which was before the House, and that those five, or the majority of them, should decide.

160. Lord *St. Leonards.*] Do you propose that the Judges should no longer be called in to assist the House?

There are certain exceptions, or rather certain peculiar and extraordinary cases which might arise, as to which I would not allow the House of Lords to part with its present power and jurisdiction. I can imagine cases in which the House might well consider that a cause might better be decided by having the whole of the Judges summoned, and hearing the opinions of the Judges *seriatim* if there were a difference of opinion among them, than even by this tribunal of five.

161. If you appointed this tribunal of five, three of them probably not being Members of the House, what would become of the power of the Judges; would you allow them to vote also?

The Judges have no power of voting already, and, speaking with all respect to the Judges, I would give them none. Cases, indeed, may occasionally but very rarely occur, in which it would be desirable to have the assistance of all the Judges, or ten or eleven of them. They do not vote, and they ought not to vote; but I think it impairs the respect of the public for the administration of justice in the House of Lords that it should happen, as has repeatedly happened, that ten or eleven Judges have been summoned and have given their opinions, there being perhaps eight to three, or nine to two, and then that the eight or nine should be overruled by one, two, or three law Lords. I do not say the judgments have not been right which the law Lords have pronounced; but right or wrong, it is unsatisfactory to the people, and it raises doubts as to the soundness of the judgments pronounced.

162. Suppose you call in the twelve Judges to assist you, as is now done, they very often do not agree in opinion; there may be five to four, or seven to three, and so on. Had they the power of voting, of course they would vote in the same way: the greater the number, therefore, according to your experience, the greater is the chance of there being a difference of opinion; would you not, by making the number of the Appeal Court five instead of three, produce the same result?

I think not; it is impossible to give any reason why five is a better number than three. I can only say, judging from my own experience, I have never known the least exception taken to a tribunal, which was well constituted as regards the members of it, which consisted of five in number. I have known repeated objections made to three.

163. Is not the number of the Judicial Committee of the Privy Council rather to be looked at in this way, with respect to its being so satisfactory, questions of a very different nature come before that tribunal, common law, equity and ecclesiastical. There is a Member of the Privy Council representing each department, if I may so call it; in an equity case, for example, there is the Master of the Rolls or one of the Vice-Chancellors. He takes the lead upon that subject, and the rest would probably adopt his view; therefore, there may not really be so much unanimity as there appears?

I cannot penetrate into the arcana of the Privy Council; all I say is, that the result is, and has been now for 22 years, perfectly and without exception satisfactory. When you have experience to guide you, and have before you the fact, that for 22 years there has been a tribunal of justice, consisting of five or four members, sitting upon all manner of cases, and never pronouncing one single judgment but has been perfectly satisfactory to the Bar and to the public; if your Lordships have the power of converting your own House into such a tribunal, I do not see why you should not do so, or why you should speculate and theorize for the mere purpose of constituting it in another form.

164. *Lord Privy Seal.*] Is not there a peculiar element of uncertainty in the system which you propose, as to who shall constitute the tribunal in each case, inasmuch as it would depend not upon selection, but upon the number of law

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law Lords whom the Lord Chancellor might be enabled to prevail on to sit; supposing there were four law Lords, who all agreed to take their places in a particular case, no Privy Councillor specially fitted to the consideration of the case in question would be called in, but you would only have the ordinary law Lords; would not it in each case be a matter of uncertainty whether you would have two, three or four special Judges called in, or whether any should be called in?

I think, practically, there really would be no uncertainty at all. I must take the liberty of reminding your Lordships, that those who are found among the law Lords are, generally speaking, persons who have knowledge and experience in all branches of the law: I am speaking in the presence of no less than two or three who have practised for years and years at the Bar in law, in equity, in Scotch cases, and in Colonial and Indian cases. It is such men of whom the law Lords are generally found to consist, the most able and the most experienced men at the Bar; if that be so, even if a case occurred, and it would be of very rare occurrence, in which as many as four law Lords were desirous to attend, you would have at least four who had been selected by successive Ministers to fill the very highest offices in the law, and who probably would be familiar with the particular subject of the appeal, whatever it might be; but even if there were those four, you might have a fifth Member, and as I have already said, there may be, and always will be, some exceptional cases. The only three branches of the law upon which there are appeals to the House of Lords are, Common Law, Equity and Scotch Law: let me suppose a case of Common Law; it is impossible to imagine that there should not be four law Lords, one or two of whom would be eminently familiar with Common Law, and so in Equity; therefore the case cannot practically exist. But if we could imagine the case that there is some branch of the law that no one of the four law Lords would be competent to deal with, then you might increase the number; I do not say you are to have an Act of Parliament to enact that the number shall be only five; on the contrary, cases like the case of The Queen *v.* Millis may again occur; if such a case as that were to occur again, involving the validity of 10,000 marriages, you ought to summon the whole of the Judges, not to be guided by the opinion of the majority, but to hear their opinions, because there are some cases which require a degree of discussion which hardly can be too lengthened and too minute; I would, therefore, for those great and exceptional cases, retain the power which the House now possesses, of summoning the whole of the fifteen Judges if their assistance was necessary, and summoning all the Judges of the Courts of Equity if their assistance was necessary, and instead of the tribunal consisting of five, if there were any sound reason to depart from what is the ordinary rule, the tribunal might consist of seven, or nine or eleven, or any other number.

165. The uncertainty of the mere *personnel* of the tribunal, you think, is of no importance in a cause?

If they are all competent it is of no consequence: take a person like my Lord Brougham, for example, who has practised for half a lifetime in the Courts of Common Law, but who is eminently familiar with the Scotch law, and who has for years argued Scotch appeals at the Bar of the House of Lords; you would have in a Scotch case, or in an English Common Law case, just the man who, if he were not a law Lord, you would summon as a Privy Councillor. If you can suppose a case in which the law Lords who say they will attend are incompetent to deal with the cause, you must make up the number by Privy Councillors.

166. Earl *Grey*.] Do you mean, that there should be, in each case, a committee named by the House to consider the case, and report what the judgment ought to be, or who should name the individuals who were to attend?

I do not know exactly what the form would be; probably the Lord Chancellor would be the person to do that; some one would attend to it.

167. Would not there be this danger: if you gave the Lord Chancellor the power of summoning what persons he proposed for any particular case, that instances might arise in which there were great political questions involved; would not the Lord Chancellor be liable to suspicion if he were to nominate the persons who had to decide a point of law of that kind?

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Assuredly not; I do not believe an instance has existed in all my practice, or has ever yet arisen, of any Judge in this country being actuated by political motives in the selection of a tribunal.

168. Is not there a very great difference between a Judge deciding according to his own judgment, and having to name the persons who are to decide a question which may involve great political interests?

It is impossible to dream of any danger; the Bar are vigilant in the extreme, and if a Judge were to manifest the slightest political feeling or bias, they would cry out loudly; and I do not believe that such a thing has ever occurred in the most agitated and excited times of our experience.

169. Lord *Brougham.*] Right or wrong, might not public opinion apprehend that there had been a packing of the Court for a political purpose?

I apprehend not. I should say upon that, as upon everything else, let us appeal to experience. I do not know who it is who summons the Judicial Committee of the Privy Council, but whoever it is, I suppose if the Lord Chancellor chose to attend, and were to suggest a list, that list would be accepted, and yet there never has been the slightest whisper of suspicion there.

170. Lord *Lyndhurst.*] Is it not the President of the Council who summonses the members of the Judicial Committee?

It may be. I really do not know.

171. Earl of *Derby.*] The President of the Council having necessarily a political character?

Yes; and we have had political cases before the Privy Council as well as before the House of Lords. In the selection of the tribunal, no one holding the office of Lord President can be suspected of packing the tribunal.

172. *Lord Privy Seal.*] Do you regard your scheme as one which is consistent with retaining the Appellate Jurisdiction of the House of Lords?

Entirely; you would only have to do what you do now; you do not now decide upon appeals by a majority of the House.

173. Would not your scheme increase the fiction which now exists? The fiction at present is, that a certain class of Peers take no part, but all who do take a part are Members of the House. According to your plan, not only would the decision not be given by more than a certain class of members of the House of Lords, but it would be given by men who are not Members of the House of Lords at all?

It may be so; it is extending the fiction, no doubt; you must either part with the jurisdiction, or you must select the best persons to constitute a tribunal.

The Witness withdraws.

Ordered, That this Committee be adjourned till To-morrow, Two o'clock.

Die Veneris, 7° Martii 1856.

LORDS PRESENT:

Lord Chancellor.	Viscount Gordon.
Lord Privy Seal.	Lord Sundridge.
Marquess of Lansdowne.	Lord Redesdale.
Earl of Derby.	Lord Lyndhurst.
Earl Stanhope.	Lord Brougham and Vaux.
Earl of Carnarvon.	Lord Abinger.
Earl Grey.	Lord Elgin.
Earl of Ellenborough.	Lord St. Leonards.

THE LORD CHANCELLOR in the Chair.

Evidence on the Appellate Jurisdiction of the House.

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SIR FITZROY KELLY, a Member of the House of Commons, attending, is further examined as follows:

174. *Chairman.*] IS there any further observation which you desire to make? I would beg leave to correct an expression which fell from me yesterday, or rather which I adopted from a noble Earl now present, as to extending a fiction which is now acted on in the House of Lords; what I meant to say was merely this: I did not desire to imply that any fiction exists. At present, the House of Lords pronounces judgment upon, substantially, the report of the majority of the law Lords. What I would substitute for that course of proceeding would be pronouncing judgment by the House of Lords exactly as it pronounces judgment now, but upon the report of the majority of the Committee, or whatever name it may be called, which I have ventured to suggest. It was suggested, of course, that it should be the Lord Chancellor who should summon the individuals to sit on the tribunal. I am sure, I and everybody who has the least experience before the House of Lords or any other tribunal in this country would feel perfectly assured that no surmise could ever be made of any improper motive actuating the Lord Chancellor for the time being in any such selection; but if there were any suspicion of that kind, the whole of the law Lords together might make the selection. I do not know, in fact, how the members who attend the Judicial Committee of the Privy Council are really selected, but I presume it is arranged among themselves; and so I presume the Lord Chancellor would arrange it between himself and the other law Lords. He would call them together, and say, Here is an appeal from Scotland, or a writ of error, involving several points of common law; or, Here is an appeal from the Court of Chancery: I will attend; who else will do so? A noble Lord, perhaps, would say, I will attend also. A third noble Lord might say, I also will attend. Then the question would be, Who shall we have besides? Practically, therefore, the selection would be made by the law Lords generally, not by the Lord Chancellor in particular, though in form he might be the individual to do so. At all events, whatever is the mode adopted in the Privy Council might be adopted here, and as it never has been open to the slightest exception in the Privy Council, no more I suppose would it be here. If there were any danger at all of any among the public surmising a political bias, that danger exists to a much greater degree at present. I need only instance on that subject the well-known case of O'Connell: I speak impartially of that case; for whatever might be my own political bias, my professional bias was the other way, for I was the counsel of Mr. O'Connell, and

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therefore argued for the judgment which was afterwards pronounced by the House; but I do not hesitate to say that there was scarcely an individual at the Bar of England or in the country, who really watched and understood the course of that proceeding, who was not perfectly satisfied, that if, instead of Mr. O'Connell, the appellant in that case had been some factory agitator in a low class of life from Lancashire or Yorkshire, the judgment of the Court of Queen's Bench in Ireland would have been affirmed, almost without argument. I am far from saying that the judgment pronouced by the House of Lords was wrong; I do not say it was; but, looking to the noble Lords who attended, and to the way in which that case was conducted, I am satisfied it is only in cases like that, that a surmise of political feeling would arise; none ever could be suggested against the Lord Chancellor for the time being in the selection of Judges to constitute a tribunal like that now under consideration.

175. Earl of *Derby.*] Supposing the tribunal to be constituted as you suggest, the selection being made by the House itself, upon a motion by the Lord Chancellor, would not that remove all suspicion of an improper bias, at the same time that the House would reserve the jurisdiction in its own hands, and refer it, by its own authority, to a Committee of its own selection?

I think that would entirely obviate any objection out of doors. The only objection to that would be, that it would require a motion on every appeal. Still that is a comparatively immaterial objection.

176. *Chairman.*] You propose that a selection shall be made from the Privy Councillors?

Yes.

177. Lord *Lyndhurst.*] Would you confine your selection to Privy Councillors, or would not you include Judges who were not Privy Councillors?

I think every one who is fit to sit as a member of a tribunal of five, that tribunal being a tribunal in the last resort, is or ought to be a Privy Councillor. I would not select as a member of such tribunal any one of the Puisne Judges, unless it were one who had been thought worthy of being appointed to the Privy Council.

178. Earl of *Derby.*] You consider it undesirable that a person should be entitled to sit upon the highest tribunal of the last resort, who was not also entitled to sit upon that which may be considered a somewhat lower tribunal of the last resort; namely, the Judicial Committee of the Privy Council?

Exactly so; and I may say that there could be no practical difficulty, because there never has been a want of members to sit in the Judicial Committee of the Privy Council, and there you have five, or at least four, and without the aid of the law Lords, who would always be the basis of the tribunal, and whom you would always have to begin with in the House of Peers.

179. Taking it as a whole, are not the appeals to the House of Lords appeals from higher Courts than those from which the appeals are made to the Judicial Committee of the Privy Council?

Certainly; an appeal lies to the House of Lords from the Lord Chancellor; and that, after appeals to the Lord Chancellor from all the subordinate Judges in the courts of equity. Again, there is an appeal in writs of error from the Court of Queen's Bench, the Common Pleas and the Exchequer, and from the Exchequer Chamber, which is an appeal from the whole of the fifteen Judges.

180. Therefore, you consider that the tribunal of the House of Lords should be constituted of as high or higher authorities than the Judicial Committee of the Privy Council?

Certainly. With reference to some supposed inconvenience in having two tribunals of the last resort, which was adverted to by the Solicitor-general yesterday, I can see none. No practical inconvenience has ever been found to exist. It is only in the case of one and the same question arising before both tribunals, and being differently decided, that any practical inconvenience could exist; and that really never could happen; or if it did, as was the case a little while ago, in relation to an implied warranty of seaworthiness, the question being before the House of Lords, and at the same time before the Judicial Committee of the Privy Council, the Judicial Committee, upon that being intimated, immediately postponed all further proceedings, till the decision of

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of the House of Lords was known. In that case, upon the decision of the House of Lords being given, the Judicial Committee, without permitting an argument, adopted that decision. I must say, in conclusion, upon that point, that as, during the one or two and twenty years the Judicial Committee of the Privy Council has been in existence, no practical inconvenience has ever been found in reference to the members, though varying and changing, who have constituted that tribunal, or in the decisions pronounced, or indeed in any part of the proceedings, or any element either in the constitution or the operation of that tribunal, I cannot but think it affords a precedent which might be well followed by the House of Lords, seeing also that, in the House of Lords, there would be the aid of all the law Lords; and in addition to the law Lords, there would be all the same elements of a tribunal of the last resort which exist in the Judicial Committee of the Privy Council.

181. Lord *Brougham.*] With respect to there being no want of attendance in the Judicial Committee, are you aware that, in consequence of the want of a sufficient number to form a quorum, it has frequently become necessary for the Lord President of the Council, being a layman, to form part of that quorum, and to sit to hear causes?

I believe it was so on some occasion some years ago; of late years I apprehend that has not been found to exist.

182. Are you aware that, in consequence of the want of a sufficient number, complaints were made in the House of Commons, and the subject brought before that House?

I am aware that that was the case a great many years ago.

183. Are you aware that, in consequence of that want, an Act of Parliament was passed reducing the quorum from four to three, and that although that Act has never been carried into execution, unless in certain cases of less importance, it gives the power always to sit with a quorum of three instead of four?

I am aware there was such an Act of Parliament, but also that it has never been found necessary to resort to it in practice.

184. *Chairman.*] You proposed to summon to this Appellate Tribunal certain Privy Councillors; of course you allude to those who are members of the Judicial Committee, because the other Privy Councillors would not be able to render any assistance; I will read to you the names of the Judicial Committee: Lord Lyndhurst, Lord Brougham, Lord Campbell, Lord Cranworth, Lord St. Leonards, Lord Wensleydale, Sir John Romilly, Sir John Jervis, Sir Frederick Pollock, Dr. Lushington, Sir John Dodson, Sir J. L. Knight Bruce, Sir George James Turner, Mr. Pemberton Leigh, Sir John Patteson, Sir William Maule, Sir Edward Ryan and Mr. Thomas Erskine; whom would you summon out of those?

In order to answer the question, I must know the nature of the appeal which is to come before your Lordships' House.

185. Suppose at the present moment the next appeal were an appeal from a decision of the Court of Chancery, either from mine or any other branch of the Court; suppose Lord St. Leonards and Lord Brougham intimate to me that they will both attend; what step should I take?

If I were called on to advise in such a case, I should say I would summon Lord Justice Knight Bruce and Mr. Pemberton Leigh.

186. If you summon Privy Councillors who have official duties to perform elsewhere, do not you necessarily withdraw them from those duties; while, on the other hand, if, as in the case of Mr. Pemberton Leigh, they are not occupied in such duties, on what ground can you call upon them to give up their time to attend the hearing of appeals before the House of Lords?

The objection involved in the question your Lordship does me the honour to put to me is twofold; first, it involves the question of remuneration; secondly, it involves the question of a sufficiency of members to attend consistently with the performance of their other duties. First, with regard to the question of remuneration; of course those who already receive considerable salaries in respect of high judicial offices, such as the chiefs of the three Common Law Courts, the Lord Justices and any Vice-Chancellors who may happen to be Privy Councillors, there could be no objection to summon; they receive,

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it may be, 6,000 *l.*, 7,000 *l.*, or 8,000 *l.* a year for discharging judicial duties, and whether they are discharging those duties in the Court of Queen's Bench, in the Court of Chancery, or in the House of Lords, it is equally within the scope of their functions, and may be considered as equally remunerated by their salaries. Undoubtedly, however, it might be found necessary to summon other Privy Councillors, very few, indeed, in number like Mr. Pemberton Leigh, who, receiving no salary, at least none for the discharge of judicial duties, might reasonably object to attend, and to attend frequently without remuneration. I do not hesitate to say, if that be so, whatever may be deemed to be the amount of remuneration necessary, in order fully and completely to constitute this high tribunal, the Crown should be advised to apply to Parliament, and Parliament could not hesitate to grant that remuneration. With the exception of Mr. Pemberton Leigh, I do not see any other name here of a person who does not receive a salary. Perhaps the observation will apply to Sir William Maule, who has a retiring pension, though possibly not such as would be considered adequate remuneration for attending here; however that may be, I confine myself for this purpose to the simple objection there might be to summoning people who have no remuneration, and who would think it very hard that they should be taken away from their private enjoyments. I will only repeat, then, the answer I have made; I will take Mr. Pemberton Leigh as a specimen, and if there were 20 like him, my answer would be the same, that if you find there are persons who, from their great knowledge of law and high reputation like Mr. Pemberton Leigh, are deemed, and justly deemed, fit to be Privy Councillors, and are members of the Judicial Committee, but as to whom there would be an objection to summon them to assist the House of Lords because they receive no remuneration, you should at once give them an ample remuneration, and then all difficulty ceases.

187. Lord *Brougham.*] You say there would be no difficulty in obtaining the means of liberal remuneration from the other House of Parliament; are you aware that when I proposed to appoint a Vice-President of the Council, for the purpose of removing difficulties in the way of the proceedings of the Judicial Committee of the Privy Council, there was a concurrence of Lord John Russell and Sir Robert Peel at once to resist any such proposition?

I do not know the merits of that proposition; but I feel perfectly satisfied that no demand that could be made upon the House of Commons would be for a single moment resisted for any salary, or for any grant which might be necessary to constitute an unobjectionable tribunal in the House of Lords. I do not say that the gentleman of whom we are speaking, and, in fact, the only one to whom the difficulty about remuneration really seems to apply, would like to be summoned; and I am quite sure in his case the remuneration would make no difference, but it is better for that purpose to strike him out as if he did not exist. Then comes the question whether there would be any difficulty, looking to the number of Judges and the state of the business in the Courts, and the time that each Judge has occasionally at his command, in finding from the members of the Privy Council, who are Equity Judges, enough to attend, to the number of two or occasionally three, all appeals in matters of equity which arise in the House of Lords. I do not hesitate to say, with perfect confidence, if your Lordships were to call a meeting from time to time, just before the beginning of Hilary term, or before the sitting of the House of Lords of the Equity Judges, who are Privy Councillors; and I may say, in a parenthesis, if enough of the Equity Judges to supply this necessity are not Privy Councillors, I cannot but think the Crown might be well advised to make other Equity Judges, namely, the remaining Vice-Chancellors, Privy Councillors; but, even with those who are now Privy Councillors, if a meeting were held just before the assembling of the House of Lords, and the number of appeals were taken into consideration, the probable time that each would occupy, and the number of law Lords who would probably attend, and consequently the number of Equity Judges whose assistance would be needed, I cannot entertain a doubt that there would be enough found to attend and to supply all the requisite assistance. Just see the number of them; you have in this list Sir John Romilly, Lord Justice Knight Bruce and Sir George Turner. I think, taking those three, considering that there is generally a week after term in which the Judges in equity do not sit, consistently even with their occasional attendance in the Privy Council, one or two of those three could be found to assist

assist during the very few days in the Session on which their assistance would be required; but I will even assume the contrary. There are, then, three Vice-Chancellors; supposing they were made Privy Councillors; or if it really comes to this, that with six Equity Judges enough could not be found to attend for the several days in the course of the Session in which their assistance would be required, all that is necessary would be to create more; as a third Lord Justice, or a fourth Vice-Chancellor, and make four or five Puisne Judges Privy Councillors.

188. Lord *Sundridge.*] Do you agree with the Solicitor-general that the Judicial Session of the House of Lords ought to be longer than the Legislative Session?

No; I see no necessity for that at all.

189. Lord *Lyndhurst.*] Why should the tribunal you suggest consist only of Equity lawyers; might not you also have Common Law Judges?

Certainly. First, it is necessary to consider whether the Equity Judges, especially, supposing the Vice-Chancellors to be made Privy Councillors, would of themselves be able to furnish one or more to complete the number of the tribunal in the House of Lords; I cannot help thinking that they would; but, if they would not, and it became necessary to create one or more additional Vice-Chancellors, or another Lord Justice, if the business of the House of Lords and the business of the Courts of Equity, together, was such as to occupy, not six only, but even seven or eight Judges in Equity, an addition ought to be made to the present number. If your Lordships' House come to the conclusion that the number to constitute this tribunal ought to be five, you must find enough individuals to constitute the tribunal; and if you cannot take from the Common Law Courts and the Courts of Equity the one, or two, or three who from time to time may be necessary, you must create other officers, and more Privy Councillors. Some years ago it was thought necessary to add three to the number of the Common Law Judges of Westminster Hall: three were added, and the Bench is now well filled: if it were necessary to add three more, three more could be found, and the Bench would be still well filled. You have created of late years three new Equity Judges, the Vice-Chancellors, and two new Equity Judges, the Lords Justices; here are five new Equity Judges. If the business of the country should be such that the five new Equity Judges, with the Lord Chancellor and the Master of the Rolls, are an insufficient number for the performance of the whole business of the country—that is, the equity administered in the Courts of Equity, and the decision of equitable causes in the House of Lords—add to their number. If your Lordships' House starts with the proposition that five is the proper number, and you occasionally require two or three Equity Judges and Common Law Judges to complete the number of five, if the number now in existence is not sufficient, I do not know why that number should not be increased.

190. Lord *St. Leonards.*] Would you give the Vice-Chancellors, upon being summoned, a right to vote?

By whatever name the act may be called, whether voting or having a voice in the judgment, I would give to every one of the five, or whatever the number may be which is to constitute the tribunal upon the report of which the House of Lords is to deliver judgment in all appeals, a voice in the judgment.

191. Take the case of a Judge in a Court below—the Vice-Chancellor's Court; you bring him into this House, and he sits upon an appeal; might not he overrule a decision of the Lord Chancellor, who has already overruled his own in the Court below?

And justly so, exactly as three Judges of the Court of Queen's Bench will overrule the opinion of the Chief Justice delivered at Nisi Prius.

192. You see no inconvenience in the head of the law being overruled here by the judgment of a Judge of an inferior Court?

It is an inconvenience which is inevitable, or else you must make the Lord Chancellor, who is the highest Judge, supreme: unless the Lord Chancellor's single judgment is to be final, he must be liable to be overruled by inferior

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Judges; and I know not why that should not be so; at least if the contrary be thought, there is an end to all argument how the House of Lords should be constituted, because there is always the Lord Chancellor; let him be the sole judge, and then the question would be, whether the public would be satisfied: but if there is to be a supreme tribunal of appeal, whatever be its number, if the Lord Chancellor differs with the rest, he must be overruled by inferior Judges, unless there are ex-Chancellors who are members of the profession of the law in an equal degree.

193. *Chairman.*] Are not the Lords Justices employed in hearing original causes?

Yes.

194. Might not one of the Lords Justices attend in the House of Lords, while the other was employed in hearing original causes?

I think so.

195. Lord *Brougham.*] Are you aware that a decision was lately come to by the House of Lords, in which the Lord Chancellor's opinion was overruled, and a decision given against his opinion by three other law Lords agreeing with the great majority of the Judges who had been consulted, and upon a question of common law?

I am aware of that; and there must be cases of that kind.

196. *Lord Privy Seal.*] I understand your view to be, that if the present number of Judges are not sufficient to form a body to select from for this purpose, the number must be increased?

Yes.

197. And you prefer always selecting from the body of Judges who are employed in other avocations habitually, in order to furnish assistance to the Judicial Committee of the House of Lords, to having that Judicial Committee itself strengthened by a body of Judges appointed solely for that purpose?

Yes; in fact it all comes round to this proposition: I may be right or wrong in thinking that the present staff of Common Law Judges and of Equity Judges would, at all events in the present state of the business of the Courts, afford a sufficient body to complete the number of five for this tribunal throughout the Session of the House of Lords. If I am wrong, and it is found insufficient, whether it be by one, two, three or four, add to the Common Law Judges, add to the Equity Judges whatever is the number in which it is found deficient.

198. You see no objection to adding to the number of ordinary Judges for the purpose of providing for this object?

No; and I think it is desirable to do so. I think it is those Judges who are engaged in the administration of justice throughout the whole of the legal year who could most effectively act in the decision of appeals in the House of Lords. If you have a Judge or Judges for that purpose, and for that purpose only, in the first place, for half the year they are doing nothing; and then again, if selected directly from the Bar, if they are competent to be members of this tribunal, they certainly ought to have some other occupation during that very long period. If it be once settled that the tribunal, as now constituted, is unsatisfactory (and of course if it be unsatisfactory at all, it must be by reason, among other things, of a deficiency in numbers), you must complete the number in some way or other. I have been engaged in an appeal before the House of Lords this very day: there are two learned Judges sitting who are every way competent to discharge the duties of Judges in a Supreme Court of Appeal, but I do not hesitate to say that it is extremely unsatisfactory. Here is an appeal against the judgment of the Court of Session in Scotland; it might have been an appeal against the judgment of the whole of the 13 Judges of Scotland, and it is heard only by my Lord Chancellor and my Lord Brougham, every way competent to sit in a Court of Appeal, but they are only two in number. Suppose they happened to differ, would the country be content with the course which the cause must then take in this the last Court of Appeal; supposing even they happen to agree, and they overrule the judgment of the 13 Judges in Scotland, I cannot but say that here numbers do really make an essential difference, and would make a difference in public opinion. It may well be that a tribunal of five may overrule the judgment of any Court, however numerously constituted that Court may

may be; but you can hardly persuade ordinary people that two individuals, however learned and eminent, should overrule the judgment of 13 Judges, and in another country.

199. Lord *Brougham.*] Are you aware of any case in which the House of Lords has ever reversed a decision contrary to the opinion of the whole of the 13 Scotch Judges?

I think so. I will not venture to say with certainty.

200. Lord *Lyndhurst.*] You think there should be a sufficient number of Equity Judges to perform all the business of the Court of Equity, and at the same time to assist the House of Lords?

I think so; and if it be found, with reference to the state of the business and their other judicial duties, that there are not enough, more should be created.

201. Are there Common Law Judges enough to perform their own duties, and to assist the House of Lords?

There are.

202. Lord *Sundridge.*] Would you make it absolutely essential that there should be five?

Five should be the minimum. In this suggestion, I do not at all propose to interfere with the undoubted privilege of each Peer to take a part in the discussion. Supposing, for instance, the Lord Chancellor learns from Lord Brougham that he will attend a particular appeal, and any other law Lord intimates his intention to attend, then three other Judges would be summoned, and the five would sit; but there would be nothing to prevent Lord Lyndhurst or Lord St. Leonards coming in if they thought fit—that would add one or two to the number—and there may be cases in which it might be desirable that there should be an addition to the number; at all events, I would not interfere with any privilege now possessed by Members of the House of Lords. I would have the tribunal consist of at least five for every appeal, and let that number be increased if the case require it, or the law Lords think fit to come. I would add, with respect to the summoning of the Judges, that I would not presume to advise the House of Lords to part with the privilege of summoning the Judges. I would discontinue the practice of summoning them in most of the cases; that is, I would have a tribunal of five, consisting of law Lords who generally are familiar and well acquainted in every respect with Common Law, and have had long practice in the Common Law, and who, with such others of the Common Law Judges as might be summoned, being Privy Councillors, would constitute the tribunal of five, which would be amply sufficient for all ordinary cases. But, undoubtedly, there may be cases of such extraordinary difficulty, or such extreme importance, or cases in which, from something which may have taken place in the progress of the cause through the inferior Courts, it may be necessary to have the opinions of all the Judges of England. I gave an instance yesterday, the case of the Queen *v.* Millis. I do not say if a case were to arise like the case of O'Connell, if I had the honour of a seat in the House of Lords, I should not suggest the summoning of all the Judges of England, because the public attention would be directed to it, and surmises might be made, however unfounded, which would be prevented by the attendance of the whole of the Judges; therefore, though, as a matter of general practice, I would cease to summon the Judges, I would retain the privilege of summoning them, and summon them upon particular occasions.

203. Lord *Derby.*] Would you extend that power of summoning the Judges to the Judges in Equity?

Certainly; I can hardly admit that the privilege does not exist at present; at all events, it exists, if they are Privy Councillors. It certainly would be exceedingly desirable that the House of Lords should have the power of summoning all, whatever may be their position or their rank, who can effectually assist the tribunal, which it is ultimately determined to create. I have only one word to say as to appeals from Scotland: of course the question must arise if there is to be any new tribunal, any addition to those who are now the law Lords, and so Members of the House of Lords; whether the power is to be exercised of occasionally summoning in Scotch appeals a Scotch Judge or

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Judges; I am free to say that, upon this point, I think the practice is at variance with the theory. Theoretically, one of course would say it would be desirable to have a Scotch Judge; practically, I think the very reverse is the case. I have now had the honour of practising at the Bar of the House of Lords, and been engaged in, I think I may venture to say, the greater part of the appeals from Scotland which have come before the House of Lords during the last 14 or 15 years; and I have come to the conclusion that they are much better decided without the presence or assistance of the Scotch Judges.

204. Are they more satisfactorily decided with reference to Scotland, or with reference to your own knowledge of business?

With reference to both; with respect to my own knowledge of business, that is, looking at the judgments which have been pronounced, I think they would not have been improved or facilitated in any way by the co-operation of a Scotch Judge; again, from the repeated communications I have had both in Scotland and England with members of the Bar in both countries, and sometimes the Judges of both countries, I am very much inclined to think it is better to leave the practice as it is, and not to summon the Scotch Judges.

205. Lord *Brougham.*] You mean not to summon them as you do the English Judges, without giving them a part in the decision?

I think so; I think it a bad practice altogether, and only to be resorted to in exceptional cases, the summoning of the Judges of England; and I would make the observation still more strongly as applied to Scotland.

206. Supposing, contrary to your opinion, the present practice should continue, as to the English Judges, of giving the Judges no share in the decision, but having recourse to them for the benefit of their opinion; and suppose that were extended to the Equity Judges; are you still of opinion that there would be no benefit in occasionally calling for the assistance of the whole or part of the Scotch Judges?

I am of that opinion.

207. Is your opinion founded upon the belief that if the Scotch Judges interposed their advice, though without any voice in the decision, that decision would either be worse in itself, or would have a less effect when it went down to Scotland, than if those Judges had not been consulted?

It is founded upon the opinion that their advice is not needed. With a report upon the case from Scotland, which comprises all the pleadings, and generally very elaborate judgments of the Scotch Judges, I think the House has ample materials whereon to decide.

208. Do you think the same observation might not be applicable to English law cases? You have four or five English lawyers deciding a Scotch case; the same English lawyers, when deciding an English case, resort to the assistance and advice of the Judges. Does not it appear to you that it would be natural that those English Judges deciding a question of Scotch law might in their discretion have recourse to the advice of the Scotch Judges?

If I thought it desirable that such a tribunal, as your Lordships' House ought to be, should refer to the opinions and advice only (but without a voice in the judgment) of the English Judges, whether at Common Law or in Equity, I might entertain the same opinion with respect to the Scotch Judges; but thinking that an evil as it exists, I would not extend it to Scotch cases.

209. Lord *Abinger.*] Do you remember a case in which you yourself were engaged, in which you were of opinion that the advice, at all events, or the voice of persons conversant with Scotland and Scotch law, might have been extremely useful, and might have prevented what was not a correct decision?

Yes; there was a certain case in which I was of that opinion, and expressed that opinion; but there, if I could have had the good fortune to persuade the House to take the course which I thought best, it would have been unnecessary to summon the Scotch Judges. It was a case which might have been remitted to Scotland for argument before the Judges, and then I think the result would have been in every way satisfactory. I do not say that the decision of your Lordships' House was wrong even there.

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210. Have you ever turned your attention to this alternative, whether there is not a considerable advantage in transacting appeal business by means of one Judge; might not it be the case that in great difficulties of the law the helm might be more skilfully held, and possibly directed with more discrimination by one Judge than by more?

I have already said, that I think there are very great advantages in a single Judge; but it must be in a Court of original jurisdiction. If you could be sure of always having one of the greatest men that any age can produce, one Judge might be fit to preside in a Court of final appeal; but that cannot be; and the country would never be satisfied with the opinion of one Judge.

211. Did not a single Judge form a satisfactory tribunal for 150 years?

I do not think it was so, even in the time of Lord Eldon. I think a noble and learned Lord who is present will bear me out in saying that whatever may have been said sometimes by way of compliment, even Lord Eldon was not a Judge to sit alone in the Supreme Court of Appeal, and that no such Judge in general can exist.

212. Supposing a Judge to sit without the peculiar habits which Lord Eldon had of delay, has not such a Court, consisting of one, an advantage in respect of unity in decision and despatch of business?

It has; but I do not think that those advantages would counterbalance the disadvantages of the want of confidence on the part of the public in the decisions of any Supreme Court of Appeal, consisting of a single Judge.

213. Supposing the tribunal to consist of one person, and he a sound lawyer and a well-educated judge, with all the advantage of previous discussions, decisions and printed judgments, in which all the cases are cited; do not you think that it is very probable that the public would be more satisfied with his decisions than with a diversity of opinions, even though the Court should come to the same conclusion?

I think not. But if the appeal were from himself, what would be done? because that must be considered if there were only one Judge.

214. Do not you think a judicial mind is very capable of revising even its own decisions in the case of such a man as the Lord Chancellor usually is?

I do; but the public would never be satisfied with it; it may be so sometimes, but it is not so always, and justice ought always to be well administered.

215. Earl of *Carnarvon.*] By your scheme you intend that the attendance of the law Lords should be optional, do you not?

Certainly.

216. After they have notified their intention of attending, would their attendance during the whole course of the appeal be compulsory?

Your Lordship uses the word "compulsory;" there is no compulsion upon any Judge even to discharge his duty; but it cannot be presumed that if a noble and learned Lord had intimated an intention to sit upon a certain appeal, and had once begun to sit, he would abandon the performance of his duty and retire; I presume it is not in the ordinary sense compulsory; but yet it is, substantially speaking, compulsory.

217. I speak of compulsion so far as relates to public opinion; would there be any risk of dissatisfaction if it was felt that a Judge might hear one part of the argument, and might be absent during the remainder?

Whatever suggestion may have been made, it is a thing which does not occur, or if it has ever occurred, it has been by some strange and unusual accident; it is not a thing to be seriously thought of that any Judge who begins to hear an appeal would be absent during any material part of it; it is a thing which never has been, and never will be, in this country.

218. Lord *Brougham.*] You are aware that for the last 150 years and upwards the Judges have been only removable by an Address of the two Houses of Parliament; but are all of them removable by such Addresses; should you propose that this new Court should follow the same rule, and that those Judges should be removable by the joint Address of the two Houses of Parliament?

No; I would not propose to lay down any such rule; the tribunal consisting,

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as I conceive it would, of those who are already Judges, or have been Judges no such provision would be necessary.

219. Some who are no longer Judges might be members of the Court, and possibly be remunerated for being so, according to your plan, and yet they would be irremovable?

It was no part of my plan that persons should be created Judges for this particular purpose; if it were, that would be a very important question. My plan is to have the law Lords in the first place, or such of them as would attend, members of the tribunal, and then to complete the number of five by the existing Judges, either at law or in equity, or in the Ecclesiastical Courts.

220. Then your plan would not comprise such cases as those of Mr. Justice Patteson, or Mr. Justice Erskine, or Mr. Justice Maule?

I should be very glad that it should; but if it really raised a difficulty, it is no necessary part of the plan.

221. Lord *Sundridge.*] Is it an essential part of your plan that they should actually be Judges at present holding?

No; because I should be very glad to see a gentleman in the situation of Mr. Pemberton Leigh summoned as a member of this tribunal.

222. You would prefer them to be in office?

Yes; and in 19 cases out of 20 they would be actually in office, as Judges of other Courts.

223. In that respect the Court would materially differ from the present constitution of the Judicial Committee of the Privy Council, would not it?

No; there is now and then an ex-Judge, Mr. Justice Maule, or Mr. Justice Patteson, who attends, and there is an Indian ex-Judge, Sir Edward Ryan; but, generally, the Judicial Committee is composed of the Chief Justices, or the Lords Justices, or the Vice-Chancellors.

224. Lord *Brougham.*] By the Address of both Houses, or even without the Address of both Houses, they would all, if they are Privy Councillors, be removable, because the Sovereign might strike out their names?

Yes; but even independently of that, if there were any good reason for their removal, the Lord Chancellor and the law Lords would not summon them.

225. They would be removable, being Privy Councillors, without an Address, and therefore they would be more dependent upon the Crown than the Judges of the land now are, who can only be removed by an Address of both Houses, making the operation of their removal equivalent to an Act of Parliament?

Yes; but if any objection existed to their constituting a part of the tribunal, they would cease to be summoned.

226. Earl *Grey.*] Might not they cease to be summoned in some cases without adequate reason?

It might be so.

227. Would not there be the danger of that abuse?

I hardly think so; I think it would be the object of the Lord Chancellor and the law Lords to make the tribunal the best that could be made. When two or three law Lords themselves had agreed to attend, they would look through the whole of the list of those who could be summoned, and summon those who could best render assistance in the particular appeal.

228. Is not it possible that times may recur in which party spirit may run very high, and political questions may be involved in an appeal which may supply a motive for excluding persons improperly from this tribunal?

I think not; I can only say, from the earliest period of my life since I attended Courts of Justice, I have never known any Court of Justice in this kingdom, consisting of four or five Judges, in the slightest degree influenced by political considerations.

229. You have given us one instance to-day in which there was a very great influence?

I am speaking of other Courts of Justice where the number is definite, and where it does not depend, as unfortunately it does here, upon the mere volition of the

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the individual Lords, whether they will attend or not. In truth, that is really the great vice of the present tribunal. I cannot but think, speaking with all the respect which I unfeignedly feel for this Judicial Tribunal of the House of Lords, its days are numbered, unless some great change takes place in its constitution.

230. Has it ever occurred to you, as one of the faults of the present system, that it is one under which the highest judicial office in the country is held by a tenure, which leads to its being transferred from one person to another, whenever a change of Administration takes place?

I think that is an evil, but by no means of such a magnitude as the terms of your Lordship's question would import; I think, on the contrary, a change in the individual filling the office of Lord Chancellor is, in many cases, beneficial; it supplies other law Lords who effectively aid in the administration of justice in the House of Lords.

231. Is not it usually held, that the separation of the judicial office from any duties of a political nature is of the highest importance?

I must say that that is not my opinion; I know it is the opinion of many much wiser and abler in every way than I am, but it is not mine.

232. Lord *Brougham.*] Are not you aware that the late Lord Ellenborough said, that if the putting him in the Cabinet in 1806 had been to do over again, he would have been no party to it?

I am aware of that; it may be the case with a Chief Justice, but would not apply to a Lord Chancellor.

233. Marquess of *Lansdowne.*] Was not that founded expressly upon the consideration of the unfitness of a person holding the office of Chief Justice of the Queen's Bench to be in the Cabinet, and not by any means leading to the inference that he thought the Lord Chancellor ought not to be?

I conceive so.

The Witness withdraws.

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RICHARD MALINS, Esquire, a Member of the House of Commons, attending, is examined as follows:

234. *Chairman.*] HOW long have you been in the habit of practising in the House of Lords?

I was called to the Bar in 1830. I practised in chambers till 1842 as a conveyancer, and acquired very considerable experience, having had extensive practice. I then began to practise in the Court of Chancery, where I rapidly got into business, and for the last 12 years I have had very extensive practice in that Court. I have also been very much selected to argue special cases in the Courts of Common Law; I may say, in every Court in Westminster Hall, the Queen's Bench, the Common Pleas, the Exchequer, and the Exchequer Chamber. Before Lord Chancellors, beginning with Lord Lyndhurst, Lord Cottenham, Lord Truro, and the present Lord Chancellor. If I address myself particularly to the House of Lords, I have not had such an extensive practice there as some of my learned friends, though I have had enough, having been engaged in some of the most important cases, to have acquired a considerable knowledge of what is going on.

235. Lord *Brougham.*] You were engaged in the Bridgewater case, were you not?

Yes; and in some of the greatest cases which have been before the House.

236. Have you practised before the Judicial Committee of the Privy Council?

Yes.

237. Will you make any observations which occur to you with respect to the present state of the Appellate Jurisdiction of the House of Lords?

I think,

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I think, with regard to the Appellate Jurisdiction of the House of Lords at the present time, it is in a most unsatisfactory state; it is unsatisfactory to the profession, and unsatisfactory to the public. I am speaking my own opinion, and I know I am also speaking the opinion of almost all the profession, when I say that the state of the Appellate Jurisdiction of the House of Lords is the most unsatisfactory thing which now exists in the administration of justice in this country. I felt this so strongly, that I took an opportunity of bringing the subject under the consideration of the House of Commons in August last, when the Chancery Amendment Bills were under discussion. Sir James Graham, who was present, begged the attention of the Government, my Lord Palmerston being present, to the observations I then made, which he thought highly important, and hoped they would receive attention, and I believe to that, in some degree, is to be attributed the attention which this subject has since received. I think the tribunal is unsatisfactory, by reason, first, of the great delay which takes place. A case is decided in the Court of Chancery; my Lord Chancellor sitting alone, I will assume, overrules the decision of the Vice-Chancellor. It may be the opinion of the professional advisers that my Lord Chancellor may have overlooked some particular point in the case, and that the decision of the Vice-Chancellor is right. It then becomes necessary to take the next step, which is to appeal to the House of Lords. I have not known any case in which an appeal to the House of Lords has been heard within two years after the decision below; that delay is, I think, entirely destructive of justice in many instances. I will mention the last English case which was argued before the House of Lords, Ridgway *v.* Wharton. Ridgway *v.* Wharton was decided by Vice-Chancellor Stuart; I argued it for the plaintiff: it was a case of specific performance to grant the renewal of the lease of an hotel in the neighbourhood of the Crystal Palace; it was a case in which the defendant had in 1849 agreed to grant to Ridgway, who was an hotel-keeper, the reversion of a lease to commence in 1852. The Crystal Palace Company was established, and before the period for renewing the lease arrived, they offered Wharton about double the rent; thereupon he said that all that had passed between him and Ridgway was only negotiation; that it was not a contract, and he set it at nought, in order to get a larger rent. Vice-Chancellor Stuart, before whom I originally argued the case, was decidedly of opinion that Wharton was wrong, and Ridgway was entitled to a grant of the lease. It was a case in which no man could doubt as to the morality of the transaction. The Crystal Palace Company, who were the real defendants, appealed. It was impossible to know whether the appeal would be heard by the Lord Chancellor sitting alone, or by the Lords Justices, or by the Lord Chancellor and Lords Justices sitting together.

238. Earl of *Derby.*] What was the date of the Vice-Chancellor's judgment? In 1853. The defendants appealed to the Lord Chancellor as soon as they could. It so happened that the Lord Chancellor heard the case alone, in November 1853. The Lord Chancellor had as distinct an opinion as the Vice-Chancellor had upon the merits of the case, and so expressed himself; but the Lord Chancellor thought there had not been a strict compliance with the Statute of Frauds on the part of the plaintiff, which was a mere technicality; the Lord Chancellor therefore dismissed the bill, which left the plaintiff liable to be turned out of this hotel, in which he had lived for 17 years, and, in fact, to be ruined. Feeling that there had been a misapprehension upon the point of law, I applied, as counsel for the plaintiff, a few days afterwards, to the Lord Chancellor, and stated that I thought I could show his Lordship that there had been a misapprehension upon the technical point of law, and I asked his Lordship to have this appeal re-heard by one counsel on each side merely upon that point of law, pledging myself that Ridgway, the plaintiff, should go no farther if his decision was against him. The Lord Chancellor, in the exercise of his discretion, did not think fit to accede to that proposal; this man, therefore, who was ruined by the decision, was obliged to appeal to the House of Lords: that appeal was heard by your Lordships' House last week, or the week before last; I had not the honour to argue it there; the plaintiff, very judiciously, selected Mr. Roundell Palmer to argue his case before your Lordships' House: that appeal was argued before the Lord Chancellor and Lord Brougham; that is, the Judge appealed from, and one other Judge. I venture to say that that is a most unsatisfactory state of things.

239. Earl

239. Earl *Stanhope.*] There was no law Lord present but the Lord Chancellor and Lord Brougham?

No. I make these observations not with reference to any particular case; but a system which does not secure the attendance of more than one law Lord besides the noble Lord from whose decision the appeal comes, is not, and cannot be, satisfactory to the profession; I say a delay in such a case of two years is destructive to the parties; and, secondly, the expense is destructive. Upon the point of delay, I think your Lordships, in legislating upon this subject, will never give satisfaction to the public unless you establish a tribunal which shall lead the public to have a reasonable expectation that an appeal shall be heard within six months, or thereabouts. It is my fate very often to consider, after a decision has taken place by my Lord Chancellor, or by the Lords Justices, who may overrule the judgment below in cases where a great amount of property is involved, and character and everything which can affect a suitor, whether there shall be an appeal or not. We are very often obliged to come to this conclusion, that assuming all other difficulties out of our way, the delay which will inevitably take place is fatal to the right of appeal, and that the right of appeal is useless; whereas if you could be sure that your appeal would be heard in a few months, say six or eight months, there would be a satisfaction in the administration of justice, and the appeal would take place; therefore, on the ground of delay alone the appeal is frequently abandoned. It is still more frequently abandoned on the ground of expense. Great alterations have taken place of late years: learned Lords who are present well know that in the time of Lord Eldon it frequently took seven years to have a cause heard upon an appeal from the Master of the Rolls to the Lord Chancellor. I was struck the other day, in looking over the report of a case in Jacob's Reports, to find Lord Eldon condemning the practice of bringing on the merits of a cause upon a motion which is heard in a few weeks, because he said it was a great injustice to those suitors whose appeals had been pending for seven years.

240. Lord *Sundridge.*] The average period of delay has decreased very much since Lord Eldon's time, has it not?

In the Court of Chancery it is now the suitor's own fault if he does not have his appeal heard within a month or six weeks, or two months at the utmost. I speak of an appeal from the Master of the Rolls or the Vice-Chancellors to the Lords Justices or to the Lord Chancellor. There are no appeals in arrear; they are so little in arrear, that I have myself privately requested parties who are appealing, as a matter of convenience to myself, not to put down the appeal, because my engagements before the Vice-Chancellor, in whose Court I practise, would not enable me to attend to it. I have two such appeals set down this week, in which I had requested the parties to delay setting them down, because they would have been heard within a week.

241. Lord Eldon's observation had reference to appeals in the Court of Chancery, had not it?

Yes.

242. Lord *Brougham.*] Has not the delay in appeals in the House of Lords diminished very much?

I have no doubt it has diminished considerably, but it has not diminished beyond what I stated to your Lordships, a period of two years; and my proposition is, that a delay of two years certain in five cases out of six is an absolute denial of justice.

243. Earl of *Derby.*] Are the arrears in the House of Lords decreasing, or are they accumulating?

I should say they are decreasing.

244. Then the House of Lords, in the course of one year, is able to keep up with the current business of the year?

I suppose it is.

245. To what cause do you attribute the delay which you state as a minimum at two years?

I will take the case I have alluded to, and assume the party has determined to appeal to the House of Lords. Suppose the decision takes place in the month

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of July; in the month of July more causes are heard in the Court of Chancery than any other month in the year; it is a long uninterrupted month: there is great pressure, and much business is done. Suppose the case to be decided in the month of July, the House of Lords will rise in the month of August; it is in vain therefore to do anything till the following month of February. You begin with a delay of seven months before you take your first step; whereas if it had been an appeal from one Judge in Chancery to the Lords Justices, or to the Lord Chancellor, you would have it heard in as many weeks as must elapse before you can take the first step in the House of Lords.

246. Is not the facility for rapid appeal subject to this disadvantage, that the party losing is very likely instantly to be recommended by his professional advisers, who are disappointed at the result below, to appeal; and so an appeal may go on, which probably would not go on if there were a greater delay in bringing it?

That is so sometimes, but not so often as might be supposed; because, in the great majority of cases, the appeal does not stay what is called the execution of the decree below.

247. Lord *St. Leonards.*] How much time must have been occupied after the decision by the Lord Chancellor in the case to which you refer before you had taken the necessary steps, if the House of Lords had been ready to hear you?

I cannot speak positively.

248. There would be lodging your appeal, preparing the printed cases, and getting ready for the hearing?

I cannot answer in reference to that particular case. Supposing there is a decision of the Vice-Chancellor or the Master of the Rolls—those Lords who are not in the profession will excuse my stating what exactly takes place. If you are dissatisfied with the decision below, you appeal to the Lord Chancellor; that appeal consists simply in presenting a short petition of two pages, stating upon what point you appeal; that is immediately answered. Briefs are delivered to counsel; the appeal comes on to be heard upon the same briefs which have been used below; there is therefore no delay. But directly you appeal to the House of Lords, you begin by presenting a petition for leave to appeal: then there is the preparation of the case, which involves great labour and difficulty; there is consulting counsel to see what the statement of the case shall be, and providing the printed cases which your Lordships always have; and there is drawing up the reasons; all this involves great expense: then there is the printing of 200 copies of the case, that every Lord may have a copy. All this involves so much expense that it is impossible that the majority of cases can bear it. I have now stated the difficulty which lies in the way of an appeal, on the ground of the delay and on the ground of expense; that brings us to a consideration of the tribunal. It has been the subject of the greatest dissatisfaction in the profession that the professional advisers of the Appellant or the Respondent have not the slightest means of knowing by what number of Judges the case will be heard when it comes on. I had the honour, last year, to appear at your Lordships' Bar in a case which has been frequently referred to, Hawkes *v.* the Eastern Counties Railway Company; upon that occasion I had the honour to appear with the Solicitor-general for the Appellants, the Eastern Counties Company. When we met the evening before for consultation, we had not the slightest means of knowing, it being an appeal from Lord St. Leonards when Lord Chancellor, whether that appeal would be heard by the Lord Chancellor alone, or whether it would be heard by two, by three or by four: we were, on being called to the Bar, gratified to find that Lord Brougham was in attendance, and that Lord Campbell's aid had also been called in. That uncertainty is a subject of great dissatisfaction. I quite concur in what has been stated by those gentlemen who have been already examined, that under no circumstances whatever ought any appeal to be heard in the presence of fewer than three Judges.

249. Lord *Brougham.*] Is not the objection of not knowing the Judges who are to comprise the Court an objection which applies also to the intermediate appeal in the Court of Chancery?

The

The objection I have in view is the uncertainty that there may not be less than three Judges.

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250. You may have only two in the Court of Chancery?

That is always unsatisfactory too; I object to every Appeal Court consisting of less than three Judges. There was another case in which I had the honour to appear last week as counsel, in which your Lordships decided that my client should not be heard—King *v.* Savery. That cause came before Vice-Chancellor Stuart: that was a very difficult and important case, and it was heard by my Lord Chancellor and Lord Brougham. I say again that is most unsatisfactory to the suitors, because they feel, however great their confidence may be in those two noble and learned Lords, they are exposed to this peril, that in a case of complication and difficulty those noble Lords may differ in opinion, and the effect of that would be, that there would be no judgment; whereas if you have three Judges present that evil is averted, and the public and the profession are satisfied. If I am asked the grounds upon which there has been a growing dissatisfaction with the tribunal of the House of Lords, I will instance a remarkable case which took place in the year 1850: your Lordships are no doubt aware that in the year 1848 an Act of Parliament was passed, called "The Winding-up Act," under which I believe there have been more Orders made in the Court of Chancery, and more litigation, than under any other Act of Parliament which ever did pass.

251. Lord *St. Leonards.*] And more expense incurred?

Yes; and perhaps more injustice done. In 1849 a great question arose which affected thousands of Her Majesty's subjects, which was, whether persons who had become provisional committee-men in projected railway companies were contributories; that is, liable to pay the debts of the company: there had been conflicting decisions. At length there was one case fixed on, Mr. Upfill's case, for the purpose of deciding the question. Master Brougham had decided that Mr. Upfill, who was a provisional committee-man, and had written for shares, and had shares allotted to him, but had not paid for them, was a contributory, because he had been a provisional committee-man, and had done those things besides. From Master Brougham's decision there was an appeal in the regular course to Lord Justice Knight Bruce, then Vice-Chancellor; of course I need not say how distinguished a Judge Lord Justice Knight Bruce is; as Vice-Chancellor he overruled the decision of Master Brougham. As this case affected so many thousands of persons, it became desirable that the law should be settled on the subject; Mr. Upfill's case therefore was fixed on as the one to decide it: Mr. Upfill consented to this, and consented to give every facility for it. Application was made to the House of Lords to hear the case speedily, and it was heard out of its due course. To the great surprise of the parties, when that appeal came on, no learned Lord was present but Lord Brougham. Now I hope your Lordships will allow me to speak with the same frankness that other witnesses have done: this was most unsatisfactory. Mr. Upfill naturally said, "I have given these facilities in the expectation that my case shall be decided solemnly by the last and highest tribunal of the country, in the presence of a plurality of Lords who would give a decision that should settle the law." I do not think Lord Brougham will blame me for supposing that he is not above the influences of human nature. There was the decision of a brother with whom it is known he is upon the most affectionate terms to be considered. There was the decision of Master Brougham, and there was the other decision of Lord Justice Knight Bruce overruling it. It is not the question what my Lord Brougham really did, or really thought. The question is, what would the public think. The public did think it was not impossible that there might be a most excusable leaning on the part of that noble and learned Lord to the opinion of his own brother. I do not say it was well-founded; on the contrary, I believe it was not well-founded; but I am speaking of what is the proper administration of justice, and what the public will think. Suppose, however, that ingredient to be out of the case altogether. This case had been fixed on, in order that it should be solemnly decided by the last Court of resort. Lord Brougham sat alone to hear that appeal. An application was made to Lord Brougham, on the ground of the great importance of the case, as settling this branch of the law, that his Lordship would suspend the hearing of the case till the attendance of Lord Chancellor Truro at least should be secured. Lord

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Brougham refused that application. Lord Brougham decided in that case that Mr. Upfill was a contributory. My Lord Brougham's decision did not meet with the concurrence of the profession: it made thousands of men contributories who had not been so before; because Lord Brougham gave the decision, that being a committee-man, plus taking shares, made him a contributory. There was so much dissatisfaction with this decision that on the same question another case was selected in the same Company. It was argued in the following Session before three noble Lords, who came to an opposite conclusion, and Lord Brougham's decision has fallen to the ground. Now, what I have to say is, that any Court, which is an ultimate Court of Appeal, where suitors can be exposed to such perils as that, is not, and never can be, satisfactory.

252. Lord *Brougham.*] Are you not aware that I read in the House of Lords a letter from Lord Cottenham, not only agreeing in the decision to which I ultimately came, but going a great deal further, and further than I was disposed to go?

Yes; and speaking with all the candour I desire to do, I think that made the case much worse; for this reason, that that was really the opinion of a noble and learned Lord upon a case which he had not heard argued.

253. Had not he decided Besley's case in the Court of Chancery?

That was not the same case. Observations have been made by those who have preceded me in giving evidence, upon the inconvenience of noble Lords absenting themselves from any part of an argument. I entirely concur in the impropriety of that. That subject is most forcibly treated on by Lord St. Leonards, in the introduction to his Treatise on the Administration of Real Property in the House of Lords. He there went fully into that subject, and condemned all these matters as strongly as they have been condemned in the evidence before your Lordships.

254. Are not you aware that one reason for not postponing the decision was that it was found impossible to obtain an account of the circuit of the attendance of the learned Judges?

It is reported that there was that inconvenience; and your Lordship is reported to have said that the Lord Chancellor's presence was not very important, for he had just taken his seat upon the woolsack, and had had no experience on these matters.

255. Was not the absence of the learned Judges mentioned as one reason for not postponing it?

Yes; but I still adhere to my point, that it was not a case which ought to have been heard by a single Judge.

256. Was not there a great pressure to have the question decided one way or the other?

Yes; but there was a great pressure upon your Lordship not to hear it alone, but to let the case be postponed till the presence of another learned Lord could be procured.

257. Earl *Stanhope.*] Could such a case have occurred in any other Court, that a learned Judge like Lord Cottenham, not having heard the case, could think himself justified in sending a letter giving an opinion upon it?

Certainly not.

258. Lord *Brougham.*] Might not it occur before other Lords Justices?

Certainly not; I have never known it occur; I have stated that I have had practice in every Court in the country, but I have never known it occur in any other tribunal, and I do not believe it would occur in any other, that any Judge giving an opinion would read a letter from another Judge who had not heard the case, expressing his concurrence or otherwise in the decision.

259. Are not you aware that it is a matter which frequently occurs at Nisi Prius, that a learned Judge will go and consult with another Judge and come back and repeat his decision?

The difference is this: that that is a mere question whether a piece of evidence shall be received, or what particular course shall be adopted; and whatever decision is made there, it is subject to revision immediately the Court meets in the following term.

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260. Not if it is a question arising in that way at Nisi Prius?

Yes; because every decision at Nisi Prius is subject to review by the full Court. I am speaking of what I believe would conduce to the confidence of the public in a tribunal of last resort, where any error which is committed is for ever fatal. Upon the subject of the want of more Judges, I have expressed sufficiently what my feelings are. Under no circumstances should any appeal in the ultimate Court of resort be heard in the presence of fewer than three Judges. I can assure your Lordships that there is at present the greatest dissatisfaction on that subject. I can hardly exaggerate the extent to which it is felt, that appeals in the last Court of resort should be heard by one Judge or by any number less than three; and I should strongly advise that at the earliest possible period, your Lordships should make it an absolute rule, that no appeal should be commenced unless there were three noble and learned Lords present.

261. Earl of *Derby*.] Do you think, with the other learned gentlemen who have been examined, that the tribunal would be better constituted with five than with three?

I think there ought to be four or five; I think five would be a very convenient number. I am not prepared to say that four would not do very well; and I fear there would be considerable difficulty in always securing the attendance of five. The inconvenience of the number four is, that you may have them equally divided; but that very rarely occurs.

262. Lord *St. Leonards*.] What is your objection to three?

I do not see any objection to three. In the course of my experience I do not think I have practised before any tribunal more satisfactorily than before the Appeal Court in Chancery, in the presence of my Lord Chancellor and the two Lords Justices; that is, I believe, upon the whole, as satisfactory a tribunal as we have known to exist in this country. An appeal to my Lord Chancellor, sitting alone, is not satisfactory, and to the Lords Justices it is not quite satisfactory. It is not because I think the decision may not be right, but I refer to the way in which the public look at these matters. I will assume that a case of great importance is argued before a Vice-Chancellor, who, when at the Bar, has occupied a most eminent position. From certain circumstances one man may become Lord Chancellor, and another only a Vice-Chancellor. The Vice-Chancellor, who has occupied an eminent position at the Bar, decides, I will assume, in favour of the plaintiff. An appeal takes place, which is heard before the Lord Chancellor alone, who reverses that decision, and decides in favour of the defendant. See how the public look at this matter. The man who has had the decision pronounced for him originally says, "My case was decided by Vice-Chancellor A., who they tell me was one of the most eminent men at the Bar; it has been decided against me by Lord Chancellor B., who they tell me was not a more eminent man than the other: here is one man decidedly in my favour, and another against me." However lawyers may understand this, the public cannot be made to comprehend the justice of it. But if, when an appeal takes place, there be present three Appellate Judges, and a majority of the three decides, the suitor feels, "I have had one Judge in my favour; but in the Appeal Court I have the decision of two against me, and I am satisfied that justice has been done."

263. In the case you put, there are two Judges still deciding against two?

That is true; but at the same time there are two out of three who are present who ultimately decide the case.

264. Lord *Brougham*.] May not there be three Judges against two, and yet two prevail, in an Appellate Court of three: there may be a decision of a Vice-Chancellor, an appeal to the Lords Justices, who confirm the decision of the Vice-Chancellor; then an appeal to the House of Lords, three Lords being present; there might be four one way, and two another, and those two might overrule the four?

That may be so; no doubt there are inconveniences, but there is a great difference between two out of three Judges being of one opinion, and one only hearing the case, because the suitor feels, although there are two against me and one with me, the decision is the result of conference. I have never known a single case (with one exception), in which the Lord Chancellor and the Lords Justices have sat together, in which the profession generally have not been satis-

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fied with the decision of that Court of Appeal. Sir Fitzroy Kelly not practising in the Court of Chancery, except in special cases, there have been many things stated by him this morning from which I entirely dissent. The Solicitor-general also does not know the daily machinery of the Court so well as he used to do; he does not now usually practise in any of the Vice-Chancellors' Courts: he only practises upon special retainer, and does not see day by day what the state of the business in the Vice-Chancellors' Courts is.

265. *Chairman.*] Is there not this distinction between the decision of a Court below, and the decision of a Court of Appeal, that even if it is an appeal from one Judge to one Judge, the decision upon that appeal is more likely to be right, because the case is then so much better understood by all parties?

I quite agree that every case is better argued upon the appeal, if the counsel properly attend to it, and no doubt it is so in 9 cases out of 10, than it was in the Court below. There is now so much attention given to these subjects that I think, in anything the House may do on the subject, the expense of an appeal should form a material item of consideration.

266. Does not the larger portion of the expense of the printed cases in the House of Lords arise from the previous expense incurred in preparing them, and not from the mere printing?

I am inclined to think so. An appeal from the Vice-Chancellor or the Master of the Rolls to the Court of Appeal in Chancery is upon precisely the same materials; there is no expense for fresh briefs. I am continually told that the expense of an appeal is very trifling; and solicitors say there is so little profit to be made by appeals that they are very much disinclined to have them. What I mean is this: that it is most desirable, if possible, that the re-hearing shall be upon the same materials as existed below. The Lord Chancellor and the Lords Justices, when they sit together, will not have multiplied copies made; they will not have the brief re-copied for their use; but I apprehend there is some arrangement among themselves that one takes it, and then another. If your Lordships should consider it necessary to continue the system of printing, if the preparation of the case only were dispensed with, there would be a great deal of expense saved, so that the case should come on before the ultimate appeal upon precisely the same materials as there were below. Sir Fitzroy Kelly was asked whether it was desirable that the period of the sitting of the Court of Appeal should be extended: I was surprised to hear him answer in the negative, because I think it is of the highest importance that the ultimate Court of Appeal, whatever it may be, should sit during the whole of the legal year. I have pointed out to your Lordships the great inconvenience which takes place in appealing a case which is heard in the month of June or July; you lose seven months before you can take your first step: I think every appeal ought to be heard in a few months, say six or eight months.

267. Both the House and the Courts may be said, practically, to adjourn early in August?

Yes; there is a vacation, therefore, of six clear months; whereas we have in the Court of Chancery only three months. But I desire to point out this essential difference: I take for granted, whatever Court of ultimate Appeal may be established, whether your Lordships retain your jurisdiction, or whether you relinquish it in favour of some Court of Appeal to be established, the Lord Chancellor will be at the head of that Court. When Parliament is sitting, the Lord Chancellor has so many demands upon his time for legislative business, preparing and considering Bills, attending Cabinet Councils, attending to the business of Parliament, that I conceive it is overtaxing any mental capacity to require him to meet the demands which are made upon him. If the Lord Chancellor, as head of the Court, were to sit upon the appeal business in the months of November, December and January, when Parliament is not sitting, your Lordships will see that those three months would be equal to the other six months, from the undivided energy of the Lord Chancellor, the head of the Court, uninterruptedly devoting his whole time and capacity to the transaction of this business.

268. Earl of *Derby.*] You think the House of Lords, during its present sittings, keeps up with the business of the year, and even rather overtakes the arrear?

I believe it does.

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269. Lord *St. Leonards.*] If the present arrear, therefore, could be subdued, the ordinary Session of the House would be sufficient to transact the current appeal business?
I think so.

270. If there were these additional facilities given by the Court of Appeal sitting during those extra months, and a great diminution of the expense, there would probably be a great many more appeals?
I have no doubt of it. I and other gentlemen in extensive practice are often compelled to advise our clients to abandon all thought of appeal, on account of the delay and expense.

271. All this expense is quite idle?
You might as well throw the money in the river, for all practical purposes.

272. Lord *Brougham.*] Do you mean that the expense incurred in preparing the statement of the case is money thrown away?
I think it is.

273. Would you have merely the bill and the answer printed?
My Lord Chancellor hears an appeal in the House of Lords between A. and B. His Lordship, perhaps, has heard the same case sitting as Lord Chancellor in the Court of Chancery, upon the same materials, and he has found no difficulty. The same learned Judge, sitting in another place, is supposed to be incapable of rehearing it upon the same materials; but for that same learned Judge a totally new statement of the case has to be made out, and great expense wasted in preparing for him that statement.

274. There must be a statement made out, must there not, for the other learned Judges?
I will assume there are four Judges sitting, then it will be much better to recopy the proceedings; it is a delusion to have these cases printed by hundreds for the lay Lords.

275. Do you consider the great expense of appeals to be confined to the circumstance of the printing?
I consider that the existing rules, from the moment you begin an appeal till the end, are the cause of one series of great expenses, absolutely impossible, in the great majority of cases, to be borne, and amounting to a denial of justice.

276. Is not there this item of expense, that unless the Court is daily sitting, as is the case in the Court of Chancery, the fees of counsel must be much greater?
No doubt; that is a matter of arrangement between the counsel and the suitors; it is a matter which the public arrange for themselves.

277. Does not the expense of refreshers, and so on, arise very much from the sittings of the House being more or less occasional?
Yes, no doubt.

278. Marquess of *Lansdowne.*] Which do you consider has the greater effect in producing a disinclination to appeal, the expense, or the delay?
I think of the two, the expense; but I think they have both a material influence.

279. Lord *Sundridge.*] In both respects, you think measures might be taken to remedy present inconveniences, without any reference to the structure of the Court?
I think it can never be done, if your Lordships retain the jurisdiction as a Court of Appeal, sitting only when Parliament is sitting.

280. Lord *Brougham.*] Supposing the Court were to sit six days a week, and there were sufficient practice for counsel during those six days, do not you consider that, in that event, the fees of counsel might be very considerably diminished?
I think they most likely would be; that, however, is delicate ground to tread upon; I can speak for myself, but I have no right to speak for my learned friends.

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281. Lord *St. Leonards.*] You are aware that formerly it used to be the practice to put several cases into the House of Lords' paper, when there was no chance of their being heard, and the counsel had fees upon every one of them?
Certainly.

282. Whereas now the suitors are saved that expense, for no case is ever put into the paper which the House does not believe is likely to come on to be heard upon the day on which it is put down?
Certainly.

283. Therefore in that way, the suitor never has to pay what are called refreshers till the case is actually in the paper?
I will take the case of King *v.* Savery. Partly in consequence of the House sitting in a Committee of Privileges, and rising on three of those days at two o'clock—I mean suspending its judicial business—I reckoned that it cost each side, or both sides at all events, about 300 guineas.

284. How did that arise?
In consequence of the appeal occupying so many more days, there were the refreshers to counsel, and there were the attendance of counsel; and the expense became very serious.

285. Lord *Brougham.*] The expense of counsel is 20 guineas a day upon a side, independently of consultations, is it not?
Each counsel has a refreshing fee of 10 guineas a day.

286. Earl *Stanhope.*] What is the amount of the fee when the House sits only half a day; is it the same as for the whole day?
The payment is just the same.

287. Lord *Lyndhurst.*] That sum of 300 *l.* is so large, that it would be convenient if you could explain a little in detail how it was made up?
In that case there were two counsel for the appellant, three for one respondent, and two for another respondent; that makes seven counsel. Then there are consultations, and things of that kind, and solicitors' expenses and fees.

288. Earl of *Derby.*] You mean that that case probably occupied six days, whereas it might have been otherwise disposed of in four days?
Yes.

289. Lord *Brougham.*] How could one day's adjournment make a case last two days longer than it otherwise would?
There were three adjournments; I think, during the hearing of that case, the Committee of Privileges met three times; therefore that took off six hours. With respect to that same case, I may mention a matter which struck me very much as illustrating the inconvenience of delay: that cause was heard in November 1852; Sir James Parker had heard it, and had not decided it; it was re-heard by Vice-Chancellor Stuart, about a month after he came into the Court, in November 1852; it was heard before your Lordships at the end of February 1856. That case, after that long delay, was in your Lordships' paper for hearing at the end of July last; my learned friend Mr. Bacon, who was counsel in the case, came down one morning; he was told the cause would be on immediately, and he came down expecting the case to come on, it being then the end of July or the beginning of August. Your Lordships found there was not time to take it: it was put off; and the parties who had prepared their case, which was a case in which character and property were involved, were kept in a distress and anxiety which is indescribable for seven months, one of them being, I believe, 70 years of age.

290. Lord *Sundridge.*] You have given the Committee your opinion as to the number of the Court, but you have not expressed any opinion as to what should be the constitution of the Court; will you proceed to do so?
I trust I have put your Lordships in possession of my view, that it is absolutely imperative that the present system should be altered; that there is so strong a feeling of dissatisfaction, that that feeling of dissatisfaction will rise to indignation if something is not done; of course that raises the question, what ought to be done? Now upon that subject, of course, there is a most material question, whether your Lordships will retain this jurisdiction, or whether you will

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will relinquish it. I know there is a very general opinion, and one noble and learned Lord, for whose opinions upon all subjects I entertain the greatest respect, I observe stated the other day, that it is impossible for the House to entertain the idea of giving up the jurisdiction. It is supposed that this Appellate Jurisdiction confers great dignity upon your Lordships' House, and is essential to its estimation with the public. That is an opinion, in which, after great consideration, I find myself totally unable to concur. If every one of your Lordships took part in those appeals; if your Lordships were all by learning and experience in the law capable of doing so, and your Lordships made decisions which were satisfactory to the public, I could then understand that it would be necessary for you to retain it; but as it is perfectly well known that an appeal to the House of Lords means an appeal to one, two or three, or at the utmost four of your Lordships' body, and the lay Peers, when they come into the House at five o'clock, are not, five out of six of them, aware that the House has been sitting in the morning upon judicial business, or if they know it, have no care what they have been sitting about, I have never been able to see how the dignity of your Lordships' House, in the eyes of the public, depends upon your retaining this jurisdiction. There are two views of the case, therefore; first, whether your Lordships will retain it as part of the business of your Lordships' House; or, secondly, whether you will consent to relinquish it with a view of establishing a satisfactory Court of ultimate appeal. My individual opinion is very strongly in favour of the latter course, and, among other reasons for the one I have stated, its being so very desirable that a Court of ultimate appeal should be sitting during the whole of the judicial year. That cannot be done if your Lordships maintain the jurisdiction as it is; because as Parliament does not, and probably never will, sit much earlier than the month of February, so long as it is retained by your Lordships, the three best months in the year must be lost, and particularly the three best months in reference to the noble Lord who must be the head of that Court, the Lord Chancellor, when he has nothing else to attend to. It appears to me, therefore, that the wisest thing to be done would be that the House of Lords should either relinquish its jurisdiction altogether, with a view to establish such a Court as I have referred to, consisting of the Lord Chancellor and not less than two other distinguished Judges—I should say not less than three myself—but certainly not less than two, to be the ultimate Court of Appeal, sitting during the whole of the judicial year; that may be done either by your Lordships relinquishing the jurisdiction altogether, or by appointing a Judicial Committee. I certainly should not concur in any part of the plan which has been recommended by Sir Fitzroy Kelly. I would recommend that whoever constitutes this body should be permanent members of the Court of Appeal: it appears to me that they ought to be Peers; but be that as it may, they ought to be Judges of the ultimate Court of Appeal; and nothing could, in my opinion, be more objectionable than to interfere with the ordinary transaction of judicial business in the Courts of Common Law or the Courts of Equity, by taking inferior Judges to reverse the decisions of their superiors. This I can say most positively, from my daily experience, that you could not do a thing more prejudicial to the interests of the public than to think of taking away the Master of the Rolls or the Vice-Chancellors from the Courts in which they are already overloaded with business: take away a Vice-Chancellor or the Master of the Rolls for a single day, and you do the greatest injustice. You imagine, perhaps, that a case which will occupy only one day; but, in fact, it occupies two or three. Last week, in the Court in which I have the honour to practise, I had parties waiting from Sussex for their cause to come on, asking one continually when the cause would come on. There was another set from Yorkshire, to know when their cause would come on; and another from Norfolk, putting the same question; all waiting with intense anxiety for those causes to come on, and being in town at a great expense. Take the Judge away for three days the next morning, and you stop the whole proceeding of the business, and for what purpose?—to take away the Vice-Chancellor to sit in a Court of which he is not a member; to overrule, it may be, the decision of the Lord Chancellor, who is his superior: I think nothing could be more indiscreet than such a proceeding. Therefore I think it is necessary, in the constitution of the Court of ultimate Appeal, be it your Lordships' House, or be it a Judicial Committee of your Lordships' House, or whatever it may be, that the

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Judges who preside in that Court shall be Judges of the highest rank. I do not think there would be any great difficulty as to the number; I should be satisfied myself with three; but it must be borne in mind that, in order to secure the attendance of three at all times, the Court ought to consist of not less than four: the whole of the four should be present if possible; but the business might proceed when only three were present.

291. Would not there be this inconvenience in a tribunal of four, that they might be equally divided?

The cases in which the four Judges would be equally divided I think would be so few, that it is hardly necessary to enter into that consideration. I venture to say it would not occur once a year. You might have them divided three and one, but very rarely indeed two and two; and in so very rare a case, inasmuch as you would have done all you could be reasonably expected to do, either the difference of opinion might have the effect of confirming the decision below, or what would be still better, the case might be re-heard. Then with regard to the constitution of the tribunal, seeing that it ought to be of the highest rank, it appears to me that the wisest thing would be to establish this Court as an independent Court, and I think the members of it should be Peers. I do not say that that is essential, but it is the inclination of my opinion that they ought to be Peers. That also raises a very material question; and upon this subject, we must take a comprehensive view of the whole question. Of course it is not for me to speak upon any constitutional question here. I do not enter into the question of life Peerages; that question has been decided by your Lordships in a late case. To life Peerages within certain limits, I do not think there could be any constitutional objection. This must always be borne in mind, that the Court of Chancery has been, I may almost say, revolutionized within the last five years, and it is as much improved as it has been altered. The Bills brought into Parliament by Lord St. Leonards, founded to a great extent upon the recommendations of the Chancery Commissions, have made a complete revolution in the Court of Chancery. We have now evidence of a totally different quality; causes are heard much more rapidly; and in my opinion they are heard upon more satisfactory materials, and they are disposed of at much less expense, not only upon the original hearing, but an appeal which used to take years does not now occupy so many months. All this is a great advantage to the public; it is also, perhaps, an advantage to the Bar; but it has had a very great effect in taking away the opportunity of making those great incomes which used formerly to be made by members of the Bar. Good incomes, even large incomes, are no doubt now made; but I venture to say, no man at the Chancery Bar, by ordinary practice in the Vice-Chancellor's Courts, can make anything like the fortunes which used formerly to be made there. All Queen's Counsel now confine themselves to one Court, except of course when they may occasionally go into an Appeal Court; and there are none of those overwhelming incomes now made which used at one time to be made at the Chancery Bar. There are no fortunes made, and none ever can, in my opinion, be made, which will enable members of the legal profession, who have not inherited fortunes, with prudence and advantage to take hereditary Peerages.

292. Lord *Lyndhurst.*] Are not there some gentlemen of the Equity Bar who practise in no particular Court, but attend any Court there which they may be required to attend?

There is only one, and that is the Solicitor-general. The Solicitor-general gave up regular practice in any Vice-Chancellor's Court, and he only practises in special cases, for which he has a special fee.

293 Is he wholly occupied in that way?

Yes; he makes a larger income than any man at the Bar now makes, or I believe ever will make again.

294. What is the amount of the special fee which is given to a Counsel on going into another Court?

It depends of course upon the disposition of the party who retains him.

295. What is the minimum?

The minimum of the special retainer which is given to go out of your own Court is 50 guineas. None of us leave our own Court now without a special retainer of 50 guineas, besides the ordinary fee on the brief.

296. *Chairman.*] In what way do you propose to constitute the new Court of Appeal?

What I suggest is, that the Court should consist of four, or possibly of five Judges, of whom the Lord Chancellor no doubt would always be the head; and the ex-Chancellor, of whom I assume there will always be at least one, should also be a member of it, if he elects to be so. I quite concur in the observation which has been made, that however the Court may be composed, it should be the business of its members to attend from the beginning to the end of a case in judicial robes, so that there shall be no mistake as to the obligations imposed upon them to give their undivided attention to the case; because, most undoubtedly, the remarks which are made by Lord St. Leonards in his work are quite true; and it has been a subject of complaint for many years, that in the House of Lords that rule is infringed to an extent which it is not in any other Court. I heard the question put to the Solicitor-general by a noble and learned Member of the Committee, whether similar interruptions to those which occur in the House of Lords did not take place in the Court of Queen's Bench. I can state from my own experience, having argued many special cases in the Court of Queen's Bench, that I have never witnessed anything of the kind there; but on the contrary, the Judges of that Court give to a case their undivided attention.

297. Is there anything else which you desire to lay before the Committee?

I desire only to impress upon your Lordships, that I think the most desirable course would be to constitute the tribunal as I have suggested, consisting of not less than four Judges: it might be a Court entirely independent of the House of Lords; or it might be a sort of Judicial Committee of the House, power being given to it to sit when Parliament is not sitting; and just as the Judicial Committee of the Privy Council report to the Queen, and the decision is formally the decision of the Queen, so this Judical Committee of members of the House of Lords might report their proceedings to the House of Lords, and their decisions might be confirmed by the House. If your Lordships' House should be desirous to retain its jurisdiction, it might be done in that way; and I do not see any reason why the members composing this tribunal should not be created Peers for life. I would strongly recommend that there should be an Act of Parliament passed for that purpose, strictly limiting the number of life Peerages to three or four, or whatever might be the number necessary for this purpose.

298. Earl of *Ellenborough.*] Might not you go to this extent: that no one should be eligible to fill any of these offices or possess such Peerages who had not served as a Judge for 10 years?

It might be qualified in that or in some other way.

299. Would not you in that way be likely to obtain a perfectly satisfactory Court of Appeal?

I think you would have a Court which would give universal satisfaction; and if you adopted my suggestion, that this Court should sit throughout the whole judicial year, so that the public might know that within a few months after an appeal was presented, that appeal would be heard without the necessity of going through a variety of senseless forms, which involve delay and expense, without being of any utility whatever. Your Lordships would confer the greatest possible benefit upon the administration of justice in this country; you would have established an ultimate Court of Appeal which would give universal satisfaction; and it would be a matter for your Lordships' consideration, whether you would preserve it as a branch of your House, or whether you could consent to relinquish your jurisdiction, which I believe you could do without the slightest diminution of your authority, or usefulness in the country.

300. Lord *Sundridge.*] How do you propose to secure the regular attendance of the members of the Court?

I suppose every man who is appointed a Judge of this Appeal Court would feel it as much his duty to attend as any other Judge; the Judges in the Courts

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in which I practise generally enter their Courts as the clock strikes the hour for commencing business; they are devoted to the business of their Courts; the Vice-Chancellor before whom I practise, and I believe every Vice-Chancellor, enters his Court as the clock strikes 10 in the morning; and I have no doubt that an equal desire to discharge their duty would actuate all the members of this Court of Appeal.

301. Earl of *Derby*.] Supposing the members of the Court to be all Judges of eminence, what difference would it make whether they were Peers or whether they were not Peers?

I do not think it would make any material difference, except that society is so constituted that, upon the whole, I believe more would be thought of the ultimate Court of Appeal if the Judges were Peers than if they were not; I do not say there is much in that, but still it has some effect. There is another consideration, however, which is of more importance: it is said, in the House of Commons there are too many lawyers; that may be so; but of this I am satisfied, that it is essential for the public benefit that there should be a certain number of lawyers in both Houses; and I would venture to suggest to your Lordships, on account of that alteration which has taken place in the amount of professional emolument, whether hereditary Peerages can secure to your Lordships a sufficient attendance of law Peers to advise you upon legal points, and give to you that assistance which lawyers only can give upon certain questions; that involves, therefore, the further question, whether the members of this ultimate Court of Appeal would not, by being members of your Lordships' House, give your Lordships valuable assistance on other points than those which come before you in the course of the judicial business.

302. Earl of *Ellenborough*.] Do you think they ought to have any remuneration?

The highest remuneration.

303. What is the present pension of a Puisne Judge who retires from the Bench?

Three thousand five hundred pounds.

304. Would not the only arrangement which would be required be this, that in the event of a Judge being, for the purpose of this advancement, enabled to retire at the end of 10 years, he should have, in addition to his pension, a further sum of 1,500*l.*, making 4,000*l.* a year?

I am quite certain of this, that the more it is considered, the more the country will be satisfied that the amount of the salaries paid to the Judges, whether you pay them 6,000*l.* or 7,000*l.* or 8,000*l.*, is so utterly insignificant compared to the performance of the business which is transacted, that it would never enter into the consideration of the question.

305. If such an arrangement were made as would enable you to have Peers to sit in this great Court of Appeal, do you see any reason why they should not sit as Peers in the House of Lords in its deliberative capacity?

I suggest that they should sit as Peers in the House of Lords; and therefore it is I suggest that, by law, the number of such Peers should be limited.

306. Limited in number, and limited also to a particular class of men?

Yes.

307. The only legislative enactment in addition which would be required, would be to enable the Court to sit during the prorogation of Parliament?

Yes; reporting their proceedings to the House, if it were thought necessary by your Lordships.

308. Earl of *Derby*.] Would not there be some inconvenience in allowing the judgment to remain dormant, as it were, during the period the House does not sit?

I do not think there would be; because we know as perfectly when we come away from the Bar of the Judicial Committee of the Privy Council, after their Lordships have given judgment, that we are in possession of the judgment, as if we had it under the sign manual of the Queen.

309. Marquess

309. Marquess of *Lansdowne.*] Would not the importance of this tribunal be increased in the eyes of the public, by its being constituted entirely of Peers, whether hereditary Peers, or Peers for life?

I think it would.

310. Earl *Grey.*] You have not expressed a very decided opinion as to whether the tribunal should be distinct from the House of Lords, or not?

I have stated distinctly, that I do not see the object your Lordships have in retaining it; I am of opinion, myself, that it should be distinct.

311. Would not there be this additional reason for making it distinct: that it would make it more easy to place the Judges of that tribunal upon the same footing as the other Judges, in respect of being removable, in case of misconduct, by a joint Address of both Houses of Parliament?

Certainly.

312. And however admirable might be the choice of the Judges who were appointed, we must look to the possibility of occasional misconduct, which might require such an intervention?

Certainly; that is a possibility which should be contemplated.

313. Lord *Brougham.*] They would not cease to be Peers when so removed would they?

Certainly not; once being Peers, they would be Peers as long as they lived. I entirely dissent from the principle of *ex officio* Peers. The course which would recommend itself to my mind would be, that Her Majesty should be empowered to create a certain number, not perhaps exceeding three or four, possessing certain qualifications, Peers for their lives.

314. Earl of *Derby.*] What restriction would you place upon the power of one of those Judges, so created a Peer, to resign his office?

Nothing more than you have now, which is quite sufficient.

315. Do not you observe that, having made a man a Peer for the purpose of filling one of those judicial positions, if he resigns that judicial position, still retaining his Peerage, you may by that means indefinitely increase the number of Peers, for the purpose of keeping up a small number of Judges?

As far as my experience goes, there is the greatest reluctance in Judges to resign their offices. Every man accepting a judicial office, I believe, considers that he has undertaken so great a responsibility, and is so anxious to discharge the duties of the office to the best of his ability, that your Lordships need not have the slightest apprehension of any man resigning unnecessarily. I would hold out the usual inducement to prevent that—that while a man is a Judge he should have a larger salary than when he resigns. The salary of a Vice-Chancellor is now 5,000*l.* a year, which is too small a sum, in my opinion, for the duties performed; that of a Lord Justice is 6,000*l.* a year; that of the Master of the Rolls is also 6,000*l.*; the Chief Justice of the Common Pleas has 7,000*l.*; the Chief Justice of the Queen's Bench, 8,000*l.* I should certainly suggest that the Judges of this ultimate Court of Appeal should not have less than 8,000*l.* a year, and a retiring pension, perhaps, of 4,000*l.*

316. Earl of *Ellenborough.*] Would not it be sufficient, supposing those Judges who might be raised to the Court of Appeal, having passed ten years as Judges, and being entitled to a pension of 3,500*l.*, should have 1,500*l.* added to that pension; in the event of their resigning their situation at the Appeal Court they would lose the 1,500*l.*?

Yes; your Lordships may put this qualification: no Vice-Chancellor can now resign till he has served 15 years; at the end of 15 years he may resign; if he desires to resign before that, it must be with the sanction of the Lord Chancellor; and unless he is satisfied that there is sufficient cause, he gets no pension.

317. Lord *Redesdale.*] Would not you wish that those offices should be of a character to tempt the superior Judges of the Courts as well as the Puisne Judges?

I have said so. I would give the highest salary and the highest dignity, so that there should be every inducement for the best possible men to consent to be placed upon the Court. The question was asked yesterday of the Solicitor-

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general, whether the Lord Chancellor could now give up the judicial business in the Court of Chancery without any public detriment: I say most undoubtedly there is no occasion for the Lord Chancellor to attend to appeal business in the Court of Chancery, because there is not more than the Lords Justices can get through with perfect facility. There is a grave question, whether any appeal should be heard even from the Vice-Chancellor to the Lord Chancellor with less than three Judges; then the Lord Chancellor would be present, but at present he sits alone, and not with the Lords Justices: experience shows that the Lords Justices can get through the whole of the appeal business.

318. Lord *Lyndhurst.*] You think that the Lord Chancellor, with two of those new Peers, would be sufficient to constitute a good tribunal?

I have said I think three would do, but I should prefer four or five.

319. You would probably assume that some of the learned Lords in the House would join in the judicial business, as they do now?

There would be no objection to that; if the ex-Chancellors thought fit to join in it, so much the better.

320. Lord *Brougham.*] What is your calculation of the amount of work and labour which this Court would have to perform when you allot 8,000 *l.* a year to the Puisne Judges?

I do not tie myself to 8,000 *l.*, though I do not think it would be too much; I think it should be a liberal remuneration. Your Lordships must consider that it is to be the ultimate Court of Appeal, and all the great properties of the country would be involved in cases before it. Take the Bridgewater case: your Lordships there had to decide a case of 60,000 *l.* a year in real estate. Can the country grudge remuneration to Judges who have to decide the ultimate title to such property as that?

321. Lord *Lyndhurst.*] The Judges in that Court would all be on an equality, would not they?

Yes. When the Lord Chancellor and the Lords Justices sit together, we do not consider the Lords Justices as inferior Judges to the Lord Chancellor, but we consider them all as co-ordinate Judges.

322. Lord *Brougham.*] What amount of labour would those Judges have to perform for which you consider they ought to be so highly paid?

As much as any men could well get through; and it is much better that Judges should be rather under-worked than over-worked.

323. Lord *Lyndhurst.*] You consider that they would have to sit nine months in the year?

Yes.

324. Lord *Brougham.*] How many days in the week?

Five days in the week.

325. Do you really believe that the Appeal business, arguing from the facts as we now have them, would last nine months in the year, the Court sitting five days in the week, when at present no arrear takes place though the Court sits but four days a week, and the judicial year does not last six months?

Your Lordship must remember that there would be many more appeals; supposing, however, the Judges are not wholly engaged, I have suggested that they would be members of your Lordships' House, and they could most usefully give their assistance to the legislative measures which are going on. Great political questions having been mainly settled, the public attention is concentrated on subjects of domestic interest.

326. Earl *Grey.*] If such a tribunal as you propose were constituted, which should transact the judicial business now performed by the House of Lords, would you contemplate transferring to that same tribunal the business now done by the Judicial Committee of the Privy Council?

I think a considerable part of it might be advantageously transferred to it; for example, all appeals upon will cases, when they are upon personal estate, go now to the Judicial Committee of the Privy Council; I cannot see why they should not go to this Court.

327. If you were to constitute so high and so costly a tribunal as you propose, would not it be desirable to concentrate in it all the Appellate Jurisdiction?

I think

I think it very possible that it would; the members of the Court would be the most distinguished men in the profession, and I am inclined to think the whole judicial business of the Privy Council might be transferred to it.

328. Lord *Brougham.*] Is it satisfactorily done now in the Judicial Committee of the Privy Council?

I think that the Judical Committee has given as much satisfaction as any tribunal which exists.

329. Lord *Redesdale.*] What objection do you see to the introduction into the House of *ex officio* law Lords, which does not equally apply to the introduction of *ex officio* spiritual Lords?

A spiritual Lord, once a spiritual Lord, continues so always; he does not resign his See.

330. Lord *Lyndhurst.*] He may do so?

Then he ceases to attend the House of Lords.

331. Lord *Sundridge.*] Do you propose that the Peers who are created officially shall resign their Peerages when they cease to be Judges?

Certainly not; once Peers, they should be Peers for life.

332. Lord *Brougham.*] You have mentioned that great revolutionary changes have taken place in the Court of Chancery; are you aware that the whole measure for the abolition of the Master's Office, and making the Vice-Chancellors and the Master of the Rolls work out their own decrees, instead of its being done at the Master's Office, was in detail proposed by Master Brougham in writing, in 1842, to the Master of the Rolls, commissioned by the then Lord Chancellor, Lord Lyndhurst, to ask his opinion?

I have heard so.

333. And though proposed in all its details in 1842, it could not actually be effected for 10 years afterwards?

Certainly; it takes a long time to convince the public and the profession of the propriety of such changes.

334. Were not the profession quite convinced six years before the change took place?

I think they were, generally speaking.

The Witness withdraws.

Ordered, That this Committee be adjourned to Monday next, Two o'clock.

The Lancet for March 1856.

Die Lunæ, 10° *Martii* 1856.

LORDS PRESENT:

Lord Chancellor.	Earl of Ellenborough.
Lord President.	Lord Sundridge.
Lord Privy Seal.	Lord Redesdale.
Marquess of Lansdowne.	Lord Lyndhurst.
Earl of Derby.	Lord Brougham and Vaux.
Earl Stanhope.	Lord Elgin.
Earl Grey.	Lord St. Leonards.

THE LORD CHANCELLOR in the Chair.

Evidence on the Appellate Jurisdiction of the House.

R. Palmer, Esq., M. P.

10th March 1856.

ROUNDELL PALMER, Esquire, a Member of the House of Commons, attending, is examined as follows:

335. *Chairman.*] HOW long have you been at the Bar?
I was called to the Bar in 1837; I was appointed Queen's Counsel in 1849.

336. Have you had much practice at the Bar of the House of Lords?
Of late years, a good deal.

337. For how long a period?
My practice before the House of Lords was only occasional till about three years ago; within the last three years it has been more considerable.

338. You had no considerable experience, therefore, till after Lord Cottenham's Chancellorship?
No; it was during the Chancellorship of Lord Truro that my practice at your Lordships' Bar began to increase.

339. Will you proceed to offer any observations which occur to you as to the satisfactory or unsatisfactory state of the appellate jurisdiction as exercised in the House of Lords during all or part of the period with which you are familiar?
I should be disposed to say that, like other people, I have thought there were some defects observable; and, as far as I can judge, the observation of those defects has been greater and more frequent of late years than it was formerly. If I might take the liberty of stating what sort of defects I allude to, I should say they might be conveniently divided into defects of circumstance attending the manner in which the present jurisdiction is exercised, and defects which may attach to the constitution of the tribunal. The defects of circumstance of course could be remedied without any change in the constitution of the tribunal; but I am by no means sure that a very considerable part of such dissatisfaction as may exist upon the subject is not attributable to those defects of circumstance. What I mean by defects of circumstance are those things which, without necessarily affecting the intrinsic quality of the justice administered by your Lordships' House, yet affect the authority of the judgments of the House, and their moral weight in the eyes of suitors and the public. I cannot help thinking that the differences of opinion which are publicly expressed, where a plurality of law Lords hear a cause and differ in opinion, are one main cause of that loss of moral authority with the suitors and with the public. Upon that point, I believe the Solicitor-general has also mentioned an obvious remedy which has occurred to me, and

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of which I think it would not be easy to exaggerate the importance; I mean that, however the tribunal may be constituted, the deliberations of the Lords who take part in the judgment should be conducted among themselves in private; and that the result should be a judgment which, so far as the public know, should appear as the unanimous judgment of the House. I have had an opportunity, from practice which I may also speak of as not inconsiderable, before the Judicial Committee of the Privy Council, of observing with what good effect that practice works there. I believe (and in this I think I have the authority of one of the learned Members of that tribunal, who has spoken to me privately upon the subject) that a very considerable degree of the moral weight due to the decisions of that tribunal is owing to this, that when it speaks, it speaks with undivided authority. Of course there are differences of opinion, but we know nothing about them; and the result is, that, unless there be some very apparent defect in the law as laid down in the judgment, which of course the counsel and the suitors do not generally assume themselves to be competent to judge of against the highest authority, the moral weight of the judgment is just the same as if it had been given with the public concurrence of every individual member of the tribunal. That I take the liberty of observing, because that seems to be a remedy very easily within your Lordships' reach, if that view should recommend itself to your own judgment. The other defects, which I have called defects of circumstance, appear to me to be principally these: in the first place, I think there is a want of judicial form about the proceedings of the House. That may seem a very small thing to persons of enlarged mind, who know of how little intrinsic importance what is commonly called *prestige* is; yet, nevertheless, I think, towards the public, it is not without its weight; and it also tends to restrain some things which naturally occur when judicial form is absent, which noble Lords who are present know very well do not affect the substance of the attention which they give to cases, but which yet may have an appearance which is unfavourable to the moral impression of what is going on with counsel who lose in a cause, for instance, or with suitors who lose, or with bystanders among the public. I refer to the general freedom of movement on the part of noble Lords about the House; their occasionally leaving the House; the tone, and the not always judicial character of the interlocutory remarks which noble and learned Lords may make. All that seems very frivolous if one dwells upon it at large, and very unjust if one dwells upon it in the way of reflection upon individuals, but, taken in the aggregate, it has some degree of weight; and I think the preservation of judicial form would tend to restrain anything of that kind. I do not presume to say what should be the judicial form. Peers' robes would be quite as good as wigs and gowns; but we are used to see a certain consistency in the manner of procedure preserved by judicial form in other places, and a comparison, not quite favourable, does arise between the way in which justice is administered in the House of Lords and elsewhere in that respect. I do not pretend to attribute very great importance to that; but my observation, as far as it goes, concurs with that of others.

340. There is no judicial costume assumed at the Privy Council, is there?

No; but the absence of it is compensated for by the manner in which they assemble. They sit, as your Lordships are sitting now, at one table; each keeps his place, and unless some necessary occasion occurs for it, he does not leave it; and the impression of sustained and continuous judicial attention is quite as well kept up. I do not of course speak of costume as being in any way the substance of the matter; but judicial form and a certain solemnity of proceeding is the substance of the matter.

341. Lord *Lyndhurst.*] The Judges are very near the counsel at the Judicial Committee, are they not?

Yes, and that is an advantage; at all events the counsel are sure that they are heard, which in a House so constructed as that of your Lordships is not always the case.

342. Earl of *Derby.*] You lay stress upon the absence of form rather with respect to the effect it has upon the public mind, than a substantial defect affecting the merits of the decisions of the tribunal?

Exactly so; I do not think it has any effect in that respect; but the maintenance

nance of the authority of your Lordships' House in the minds of the public is of so much importance as to be hardly inferior to the substantial merits of the decision.

343. *Chairman.*] You say sometimes observations are made which are hardly of a judicial character; do you think that that occurs more in the House of Lords than in other Courts?

I have heard of it in other Courts certainly; but I am bound to say that I never hear it without regretting it, and never without thinking that it detracts from the authority and weight of the tribunal; of course it partly depends upon the temperament of individual Judges. It cannot be avoided entirely, and anything like a harsh observation upon it I should be very sorry to make. But there is no doubt that in this tribunal, which is the highest, and ought to be the most dignified, the reasons for preserving that dignity every where would seem to apply with peculiar force.

344. Lord *Lyndhurst.*] Those remarks by the Judges are made to occupy a prominent place in the newspapers?

There is a danger of that. The other point, which is one of more importance to the public, but still is within the category of that which is circumstantial, which I should take the liberty of mentioning, refers to the length of your Lordships' adjournment during prorogation. I do not of course presume to speak upon a matter quite beyond my province; but I assume that it would be in your Lordships' power, if you thought fit, or it might be placed in your power by enactment, to appoint a Judicial Committee to act for the House during the prorogation whenever it might be thought expedient. Certainly, a delay for three months out of the whole time while the Court of Chancery is sitting is a delay tending to create other delays, and upon the whole, in my opinion, as well as that of others, it must tend to the production of substantial inconvenience and injury to suitors. I agree with what has been said upon the subject of injunctions. I think very few appeals ever come to your Lordships against orders granting injunctions; and the fact that they do not come is, I think, of itself evidence that this delay has been productive of unjust consequences, because there are a great number of suits which are determined when the injunction is granted. Suits, for example, to stop the proceedings of railway companies, on the ground that they have not complied with some provisions necessary for the protection of the subject. Suits to stop applications of the funds of companies to purposes alleged to be out of their authority. Suits to stop the invasion of patents or other rights. Generally speaking, the Court of Chancery sends those questions to be tried at law before it interferes; but it does, in many cases, interfere, and a prompt remedy is necessary, in order to make the remedy worth resorting to at all.

345. Lord *Sundridge.*] Are there no appeals against injunctions at present?

I think, if the printed Report of your Lordships' judgments were looked over, there would be found very few.

346. There are some injunctions issued while the House is sitting, are not there?

Yes; and that tends to show that the cause is not only the suspension of the sittings of the House; but I am bound to say that I remember a time, when we were celebrated at the end of the month of July, and in the beginning of the month of August, for what I may call improvident injunctions. The pressure of business of the Court of Chancery is great towards the vacation, and persons who are anxious to get injunctions often come at a time when the Court cannot give so much deliberate attention to the application as at other times. Sometimes, in the vacation also, the same thing is done, though injunctions are now granted with a great deal of caution, no doubt. Your Lordship will not understand me as attributing to the Court of Chancery habitual incaution in granting injunctions—far from it. Generally, the Court proceeds in such cases very cautiously, nevertheless they are sometimes granted, and not unfrequently, in cases which involve questions of importance.

347. Do you think it a matter of great practical importance that there should be an appeal respecting injunctions when there are so few now which practically come before the House?

I think the possibility of great injustice taking place in consequence of there being no appeal is a matter of importance. We cannot measure the evil

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entirely by referring to the number of cases which at present occur, where there might be an appeal, and where there is not, because the fact that there may be an immediate appeal to the House of Lords is of itself a protection, as far as it goes. If during the Session of the House great injustice were done, an application might be made to the House, and the appeal advanced.

348. Lord *St. Leonards.*] In the case which you are speaking of, where an injunction had been granted, there would remain the decision of an intermediate Court before the necessity for appeal here arises?

Yes.

349. You would have two Courts of competent jurisdiction to decide upon the merits; can there, under such circumstances, be a necessity for such a hurry in regard to an appeal to this House as to cause any complaint of the House not sitting throughout the year?

It might happen that the two Courts differ.

350. Generally speaking, though possible, that is not the case, is it?

Your Lordship will recollect that mischief may be sometimes done exactly of the same kind, by refusing an injunction as well as by granting it.

351. You are aware that if this House were to be open instantly to an appeal, it might give rise to great objection, and might be the subject of great abuse, because men seek injunctions not always on the merits?

This House would not advance the appeal, unless there were some good cause shown, I presume.

352. Is it desirable that this House should be always ready, at a very short notice, to hear anything which anybody may desire to be heard?

It is a question of degree; and perhaps the reason for the House sitting during the additional three months is inadequately stated, if it is rested too much upon the particular case of injunctions. The great fact, that no appeal is disposed of under two years, I think seems to show that your Lordships' proceedings are slower than they ought to be for the purposes of justice.

353. When Sir John Leach was Vice-Chancellor, sitting in the next room to Lord Eldon, counsel would go in, and ask him for an injunction; and if he refused, the same counsel would go into the next room, and ask the Lord Chancellor for the same injunction; that led to such grave mischief that it was found necessary to stop it; do you think that that would be a desirable state of things?

I should not recommend that your Lordships' House should be so accessible as that; I do not think it necessary; but as I said before, it is a question of degree. It cannot be denied that there are cases the importance of which would be obvious, which would be stated to the Committee on Petitions, and then I take it, if it were an injunction case, it would be advanced. I have known cases of pleading which were so advanced, pleas or demurrers, or anything else which stops the proceedings; and I own I should have thought that the importance of that branch of the jurisdiction of the Court of Chancery is so great that you could not safely lay it down, that in that branch of jurisdiction appeals may not frequently be such as the subject ought to have; and the present practice does seem, from the nature of the case, to exclude them.

354. Earl of *Derby.*] You just now illustrated your view of the consequences of the House not sitting throughout the whole of the judicial year, by the fact that it was now, upon the average, two years before judgments upon appeals were pronounced; are you aware whether the House of Lords is in process of overtaking the arrears, or of increasing them?

Not of increasing them, certainly; I should think overtaking them.

355. Does not this, then, follow: that, according to the present practice of the House, there is time during the Session of Parliament to go through the whole of the business which is brought before the House in the course of the year?

It is very difficult to foretell, with any degree of certainty, what the effect might be upon the increase of appeals of any accelerated process of appeal.

I do

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I do not think that the rate at which the House gets through its business is as yet accelerated in such a proportion as to be productive of a sensible effect, but I have no doubt the appeals would increase in the ratio of the despatch: to some extent it is possible that that might be more than was desirable; but upon the whole I do not think, unless the scale of expense were much reduced, your Lordships are in any danger of having an unsubstantial class of appeals from this country. From Scotland a very unsubstantial class now comes.

356. Are you of opinion that no advantage exists in there being some interval between the decision of the Court below and the determination to prosecute a final appeal?

I think it is decidedly an advantage that parties should have time to coolly consider their real position; but it would be consistent with that that there might be too great an interval.

357. What time do you think would be necessary for the parties to cool down?

That depends upon the nature of the case; I think if they had a couple of months, they would be free from the excitement they felt at the moment the case was determined.

358. *Lord Privy Seal.*] The present interval applies unequally to different cases?

It does.

359. Do you think that there should always be a certain interval between the previous decision and the hearing before the Court of Appeal?

Yes, as a general rule: there is sure to be a considerable interval, whatever change your Lordships might make in the present rules respecting the lodging of cases, and so on. It might, however, be a matter of doubt whether that is not now more tedious and expensive than it need be.

360. *Lord President.*] Would it be necessary, in your opinion, if the House sat to hear appeals during the recess, to make a regulation, that the Committee appointed for the purpose should sit from a stated day, as the Court of Chancery does, or would it be sufficient that there should be some provision by which they might be enabled to meet when the necessity arose?

That would be for your Lordships' consideration. Supposing the means existed of bringing urgent cases before the House during that period, and the Committee of Appeal were constituted the judges of the alleged urgency, that might be sufficient. There are many cases that are not urgent, and as to which an interval of three months is wholly unimportant.

361. *Chairman.*] Are you aware that, by the Standing Orders of the House, no appeal can be heard in the course of any Session which has not been presented within the first 14 days of the meeting of Parliament?

Yes; that, I humbly think, is an order which it would be very expedient to rescind.

362. The result is, that, practically, no appeal is heard until the Session after that in which it is presented?

Yes; that is so.

363. Except those which may have been presented during the first 14 days, which includes but very few?

That is so.

364. If that were altered, would not you remove a considerable ground of delay, supposing there be judicial strength enough in the House to get through the business of appeals?

I think that is a very desirable and important alteration.

365. Does not that order admit latitude with regard to all cases in which a decree has been made during the Session of the House; does not the order refer to cases upon which the decree has been made before the meeting of Parliament, and upon which, consequently, notice may be given of appeal?

I think, in practice, it refers to appeals presented from decrees made during the sitting of the House.

366. Would not there appear to be some reason for that Standing Order,

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in the provision which it makes for the House accertaining beforehand what amount of business it will have to go through in the course of a Session, and making arrangements for the attendance of parties accordingly?

I do not think that is a substantial object. I do not well see why the situation of the House should be different in that respect from that of any other Court of Justice. Throughout the judicial year we have business constantly coming in; the list is rapidly increasing; and yet there is always abundant time to give notice to the parties. It is sometimes convenient for the House to know beforehand what those cases are in which the attendance of the Judges will be required; beyond that, I cannot see any substantial object equivalent to the possible disadvantage. I believe that is all which it will be proper for me to mention as to matters of circumstance. With respect to matters of substance, I think, like those who have preceded me upon the main point, that it would be more satisfactory, in every way, if there were a more permanent and constant judicial element in your Lordships' House; if the attendance were not accidental and voluntary to the extent to which it is; and also if the number of law Lords were not so liable to be reduced by accident, as it is. Also, I think, it has been an evil in all times, probably, that from the nature of the present constitution of the House, too great a preponderance of authority has generally belonged to the Lord Chancellor for the time being; and, considering under what circumstances the Lord Chancellor is necessarily selected to discharge other functions as well as those which are judicial, that has been frequently productive of inconvenience. For instance, to take what has occurred since Lord Eldon's time, of the six Chancellors who have held the Great Seal since Lord Eldon's time; three of them were persons whose practice at the Bar had been, if not exclusively, yet mainly, in the Common Law Courts—Lord Lyndhurst, Lord Brougham and Lord Truro. The judicial experience of these noble and learned Lords in the Court of Chancery as to matters of equity had all to be acquired (with the exception of a short period, in Lord Lyndhurst's case, while he was Master of the Rolls), when they first took their seats in the House of Lords as Lord Chancellor; and yet the authority of that position naturally gave them the chief responsibility and chief influence in that assembly. With respect to equitable jurisdiction, I think that could not but be a defect and an inconvenience: it might have been expected to be so in a much greater degree than it has actually proved; but still I think that has been felt as being a source of weakness, so far as relates to the equitable branch of the jurisdiction of the House of Lords. Then the frequent change of Lords Chancellors increases, on the whole, that inconvenience in some degree; because we have not found that retired Lords Chancellors have attended so constantly in the House as to counterbalance the change of the predominant influence. I think I may also venture to say, that though it has frequently been observed by most eminent men that the Lord Chancellor sitting in the House of Lords would be even more ready to reconsider his own opinion than that of another man, yet from the constitution of the human mind, it is not possible that an opinion formed deliberately and judicially, after the most attentive consideration of the case, would be easily changed; and, accordingly, the instances have been very few in which that has happened. All those circumstances, I think, have tended upon the whole to create a feeling that some more constant element besides the presence of the Lord Chancellor, who is not himself a constant element, should be imported; and that feeling has increased now that we have, in the Court of Chancery, no longer the rule of a single Judge, but a Court of Appeal constituted of three. With respect to the remedy, the best thing which occurs to me is substantially what has been suggested by the Solicitor-general, namely, that your Lordships should have at least three permanent Judicial Assistant Judges, who, I should think, ought to be Members of your Lordships' House; and that for that purpose the necessary power should be given to the Crown to create Peerages, not hereditary, because, undoubtedly, if it must be an hereditary Peerage, it would be found to be a great fetter upon the supply of adequate judicial power. I should also think that those persons ought not to be Judges at the time, but individuals who have, for such a period of time as to recommend themselves to the Crown by the discharge of their judicial functions, filled the offices of Judges, either in this country, or in Scotland, or in Ireland: that they should be removable from the office of judicial assistants in your Lordships' House, as any other Judges are removable from a judicial office, but that their seats in your Lordships'

Lordships' House should continue, and that there should be no kind of impediment to the assistance of any other noble Lords who are qualified to take part in the deliberations: that is my general idea of the scheme that would be necessary. Of course stipends would be involved in the principle, and the duty of a regular and punctual attendance.

367. Earl of *Derby.*] What number would you consider sufficient to constitute a permanent Appellate Tribunal?

I think, taking into account the probability, and almost the certainty that there would be other noble Lords capable of assisting, three in addition to the Lord Chancellor would be sufficient; but at the same time I am bound to say I am sensible to the force of the reasons of those who would hardly be satisfied with three; I mean the object of having those who are conversant with more than one branch of the laws administered in the House. The Lord Chancellor, we know, from experience, may be either a common lawyer, or an equity lawyer; it would be necessary to have at least two equity lawyers, I think, whom you could always reckon on to assist the House; on the other hand, especially if the attendance of the Judges is to be less frequent than heretofore, it might be important to have two common lawyers, and I think there would be a great advantage in having a Judge acquainted with the laws of Scotland; upon that point I would take the liberty of observing, that it would be well for your Lordships to consider whether that state of things which has existed now for many years in the House as to the laws of Scotland, is one upon the permanency of which you can reckon. Two noble and learned Lords, who have been in the habit of attending the House, are very conversant with the laws of Scotland, but that may not always be the case; while that is the case, some of the objects which would be answered by having a Scotch Judge present may be otherwise attained; one reason alone I think may be mentioned, which makes it very important that there should be a Judge acquainted with the laws of Scotland, that is, that otherwise surprises upon the House might take place; counsel might suggest questions of practice, or the like, as to which, without a reference to Scotland, the other Members of the House might not be competent to judge; the opposite counsel might be wholly ignorant of Scotch law, and would take it for granted that his opponent knew what he was saying, and your Lordships might be deceived.

368. Lord *St. Leonards.*] Are there not usually Scotch counsel on both sides in a Scotch appeal, to whom the House would appeal, and ask them whether they admitted what had been stated?

Yes; but it is possible that in their zeal, or because the point is susceptible of dispute, the counsel may not agree upon the solution of the difficulty.

369. Lord *Lyndhurst.*] Has there been a considerable diminution of Scotch appeals?

This Session there has.

370. Have you any doubt that the number of improper appeals from Scotland has been very great?

I have no doubt that the improper appeals have been numerous; I was engaged in one last Session, in which the value of the fee-simple of the property in question was 15 *s.*, and there was no public question, and nothing beyond the private interest of the parties concerned.

371. Lord *Brougham.*] Is it your opinion that this tribunal, consisting of the Lord Chancellor and three or four other Judges, should exclude other Members of the House from taking a part on appeals?

Certainly not.

372. Either lay Members or law Members of the House?

We have got so accustomed to the principle that was acted on in O'Connell's case, that the lay Lords, in the exercise of their own sense of what is right, do not think fit to interfere, that we do not contemplate such an intervention; but it would never occur to me as necessary or desirable that any learned Lords belonging to the House should refuse to give the benefit of their knowledge to the suitors and to the public; still less should I ever think of refusing them the right to attend; I should think it a great benefit to the public that they should attend.

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373. Do you consider that a Judge being removed from his judicial office, and continuing a Peer, should still have the right to attend the law proceedings of the House?

It did not occur to me that there would be any reason why he should not; I may have been too much thinking of the cause of removal which suggested itself as most probable to my mind; that is, it might happen that the attendance of the Assistant Judge from various causes might cease, and he might be in such a situation as not to be able to resign, or it might happen that he was not willing to resign when it was felt by your Lordships that he ought.

374. Earl of *Ellenborough.*] That would be obviated, would it not, by the House appointing every Session a Judicial Committee, in which case they would omit the name of any Peer who was unable to attend?

Yes; but the principle of the plan I was mentioning would be that there should be certain Judges Assistants to your Lordships' House, being also Peers, who should receive a regular stipend from the State, and be expected to give not voluntary, but functional service.

375. If one of those Judges were, from indisposition or otherwise, unable to attend, the House would exercise its discretion, and on the returning Session would omit his name from the Judicial Committee, and upon being so omitted, he would lose his stipend; might not that be the arrangement?

That might possibly be a mode of removal which might be more satisfactory than the other which exists in the case of ordinary Judges.

376. Lord *St. Leonards.*] I understand you to object to the law Lords sitting in the House in their ordinary dress, and not in the capacity altogether of Judges, but as Peers; you now propose, I understand you, to appoint three Assistant Judges to aid the Lord Chancellor, and they, I understand you, are to sit as the Judges do in other Courts?

Yes.

377. Would not there be a still stronger contrast between any law Lord sitting in his ordinary costume in the House, and exercising his rights as a Peer, and the members of the Court which you suppose to be constituted?

It would occur to me, if your Lordships thought fit to consider the subject of judicial form of any importance, that your Lordships, by an order, might require that any Lords taking part in the judicial business should appear in their robes as Peers, or any other costume which might be thought right.

378. Lord *Lyndhurst.*] There are Lords whose fathers were Peers, and who have become Peers in consequence of the death of their fathers, but who have been called to the Bar, and therefore are noble and learned Peers; it would be left, probably, to them to attend or not, at their discretion?

Yes. It would not occur to me to suggest any alteration in the present rules of the House in that respect, which practically adjust themselves.

379. *Chairman.*] You would allow any Peer to attend, and would rely upon the discretion of Peers?

Yes.

380. Lord *Brougham.*] Suppose a Peer removed for corruption from his judicial position in the House, he would continue a Peer; would he still attend the judicial proceedings of the House?

I should not think it necessary to provide against such a case. I presume that historical instances might be cited in which there was nothing to prevent a Peer under those circumstances from doing so, unless it were his own sense of propriety or impropriety; Lord Macclesfield, for instance.

381. *Chairman.*] Would not that same objection occur supposing the Chief Justice of the Queen's Bench, being a Peer, were removed from his place for corruption?

It would. The reason I proposed such a plan was this, that you would require to appoint some person who was adequate to discharge the duties, to receive the stipend instead.

382. Lord *Sundridge.*] Do you consider it essential to the right working of the tribunal, that the Members should agree, upon receiving their Peerages, to attend constantly?

Exactly

Exactly under the same conditions as other Judges do in other Courts.

383. In the Judicial Committee of the Privy Council, is not it the case that the attendance is voluntary on the part of those who are members of it?
I believe it is a gratuitous attendance to the majority of them.

384. *Lord Privy Seal.*] The amount of duty to be done is much less before the Judicial Committee of the Privy Council than it is in the House of Lords?
Yes. I think the business of the Judicial Committee ordinarily occupies those weeks during which the sittings of the Court of Chancery are suspended, at the end of the different Terms, about a week or a fortnight for each sitting, four times a year. From six weeks to two months a year is the whole of their session.

385. It is more easy, of course, to secure voluntary attendance during that period than during a longer period?
Yes.

386. Lord *St. Leonards.*] You recommend that there should be a certain number of Judges, and you are of opinion that there should be one judgment delivered by one person. Suppose a Court of three, with the Lord Chancellor at the head of it, is constituted, and there are two of one opinion and one of another opinion; would you have judgment delivered as the joint opinion of the Court, without reference to the opinion of the one who differed?
I think it would be desirable that it should be delivered as the opinion of the House, adopted by the House, and sanctioned by the House, without any reference to the opinion of the one who differed. Your Lordships will allow me to state my reason for that. In the Courts below, which are subject to appeal, it is of the greatest importance that the reasons which influence the minds of the different Judges should appear; and if they differ, it is of still more importance, in order that they may be considered and reviewed; but when you come to the Court of last resort, it is of more importance, I apprehend, that the authority of the judgments of that Court should be maintained in the eyes of the suitors and the public, than that the precise reasons which have actuated the Judges should appear. It is useful that those reasons which the House has adopted as its reasons should be known; but I do not think it can be necessary that it should be known that an individual, however learned and eminent, has dissented from those reasons.

387. Do you think, the reasons for differing from the judgment not being given, justice would be as perfectly administered in the way you propose as it is now?
I think so, because certainty is of more importance even than accuracy upon many questions; and if there be a serious inaccuracy, it may be always corrected by legislation. In the Judicial Committee of the Privy Council I can hardly think that the fact that the decisions give so much more satisfaction than in other Courts, is only owing to the eminence of the Judges who preside; I think it is because the element of doubt and question is excluded when we have the judgment given.

388. Is not there this reason, perhaps, for one general judgment being given in the Judicial Committee, that there are several learned persons attend there who represent different branches of the law; and as cases upon each branch come before the learned persons sitting there, he who is conversant with that particular branch, takes the management of it; the consequence of which is, that every member in his turn pronounces the judgment of the Court?
I am incapable of knowing accurately what passes, but my observation would not lead me to believe that that is the case; my observation would lead me to believe that those members of the Judicial Committee who do not sit there as representing a particular branch of law, always exercise an independent judgment, and contribute an independent judgment to the ultimate decision. In Indian cases, in which I have had considerable practice, Sir Edward Ryan attends there with great advantage to the public, and contributes his special knowledge of the administration of Indian law: but I should say that the more leading part in the hearing of those cases has often appeared to be taken by Mr. Pemberton Leigh, or by Lord Justice Turner, or by Lord Justice Knight Bruce, and it would be contrary to all the conclusions I should draw, for me to suppose that in case of a difference Sir Edward Ryan's opinion would necessarily prevail.

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389. Earl of *Ellenborough.*] Do not you think it would be conducive to the administration of justice in Indian cases in the Judicial Committee of the Privy Council if some person conversant with the Company's law were made a member of it, as contradistinguished to British law?

I dare say that might be so, though what we have seen of the Company's law does not give one a very exalted idea of the manner in which it is administered.

390. Does an assessor now attend?

Sir Edward Ryan attends. I think he was formerly an assessor; but that he is now an ordinary member of the Judicial Committee.

391. Lord *Sundridge.*] Drawing an analogy from what takes place in the Judicial Committee, you are not under the apprehension, with respect to the presence of a Scotch Judge in the House of Lords, that such Scotch Judge would have the effect of always deciding an appeal?

No; my impression is, that if the Judge were entirely withdrawn from the actual administration of the law in Scotland, and selected on account of his generally acknowledged eminence in Scotland, he would contribute very useful knowledge upon points which ought not to be drawn into dispute in the House, and be a great security to the House against surprises upon Scotch Law, when there might not be the presence of a noble Lord acquainted with it; at the same time that upon the substance of the case the other noble and learned Lords would exercise as independent a judgment as they do now. I have constantly seen the other learned members of the Judicial Committee refer to Sir Edward Ryan when any question of evidence or of practice in the Indian Courts was under discussion. When counsel come into that Court new to the Indian cases, they begin immediately to think how to apply the English law of evidence, and they are astonished at the sort of evidence which is constantly admitted; upon such points as that, the members of the Court consult Sir Edward Ryan, and no doubt they are very much guided by the information which they receive from him upon matters of that kind; but as to the substance of the case, and the administration of justice upon the merits, I am sure they never are governed merely by his opinion, unless their own opinions are the same.

392. *Chairman.*] You put the case, that in a Scotch appeal, upon a point of practice particularly, the House may be taken by surprise by some question of practice arising with which they are not familiar; though that, theoretically, might occur, do you think in practice such a thing has ever happened?

No, not during the time I have had any knowledge of Scotch appeals. My Lord Brougham has been almost always there, and sometimes my Lord Campbell; and I have no doubt they do discharge the office of assessors and advisers to your Lordships' House, if any matter of that kind arises; but whether they do or not, the effect must be the same in Scotland; and, in fact, I believe the presence in your Lordships' House of two noble Lords so well acquainted with the law of Scotland to be a great source of the contentment which prevails with the manner in which the Scotch branch of the jurisdiction is administered.

393. Lord *Brougham.*] Are you not aware that the practice in a Court changes from time to time; during 50 years it undergoes, necessarily, considerable changes?

That is so; but I should think that those who began with a knowledge of a Court of law as it existed in former times, to that extent would always be able to give valuable assistance; I cannot, of course, assign the limits of that assistance.

394. Are not there in Scotch causes almost always Scotch solicitors present, who are skilled in the practice of the Courts?

Yes.

395. Could it happen that a point of practice should be grossly mis-stated for the purpose of his argument, and for the service of his client, by one counsel, the opposite counsel not being prepared to meet it by counter statement, without the solicitor for that party suggesting that it had been mis-stated?

I should think it not likely, but extreme cases hardly test the question; there might be many cases wherein I think there might be an honest misinterpretation

terpretation of law or practice, upon which an impartial and perfectly independent mind might be able to correct with a high hand a sophistical line of argument, which nevertheless you could not say no solicitor would allow his counsel to use, and no counsel ordinarily honest would employ.

396. *Lord Privy Seal.*] A member of the Court itself, conversant with the law, would be able to abridge many discussions which would arise where the Judge had entirely to take his knowledge of the law from the contending parties?

That is very likely. When my Lord Truro first took his seat in the Court of Chancery, than whom I never remember a more conscientious and painstaking Judge sitting there, we had to prove the A. B. C. of many cases, because his Lordship was determined to understand what he was called on to do. He did not always find he had to deal with counsel who would assist him to the extent of clearing up points in which they might think they had a chance of succeeding, and it was necessary, therefore, to go elaborately into many points which might not have been argued before Judges more conversant with that jurisdiction. In those respects I think the labour of the House might probably be abridged by the introduction of a Judge of great eminence, thoroughly acquainted with particular branches of the law.

397. *Chairman.*] Does your experience in Scotch cases lead you to the conclusion that the presence of a Scotch Judge would be likely to render arguments shorter?

I cannot venture to speak upon that point; I have frequently felt myself a little at sea when points have been raised which, nevertheless, a Scotch gentleman thoroughly understood, though, of course, I had taken all the pains I could to obtain information from those who instructed me, and from the junior who assisted me.

398. Earl of *Derby.*] I understood you to say you considered it necessary to have a larger number of Judicial Peers than three, though three might be sufficient, in order that you might obtain the assistance of a certain number of Judges qualified in every department of the law?

I would substitute the word "advantageous" for the word "necessary."

399. Would not the same advantage be attained if, as in the case of the Judicial Committee of the Privy Council, there were a power of summoning one or two Judges peculiarly qualified to hear and determine any particular appeal, to assist the law Lords, and to have the power of giving their advice in the decision?

I do not think that would either attain the same advantage or avoid great disadvantages. In the first place, it would not attain the same advantage; because those Judges, being themselves concerned in the administration of justice, might bring minds as unbiassed and impartial, in point of fact; but it is not to be expected that they would so certainly carry with them the confidence of those who administer the law in Scotland; there might be some Judges summoned from Scotland, and they might give opinions tending to overrule the judgments of the majority of their brethren; that would hardly be satisfactory in Scotland; on the other hand, if you had a Judge who was not a member of any Court, it would not be felt like an appeal from the whole Court to some of its members.

400. That would not apply to any Judge who had retired from the Bench?

It would not. In addition to that, with respect to Judges actually on the Bench, you cannot help feeling that any reliance upon the assistance of or consultation with Judges actually on the Bench, whether in England or Scotland, is attended with two drawbacks; one, that they do not give votes unless they are members of your Lordships' House; and if it is made public that your Lordships depart from the advice given by the majority of them, that always detracts greatly from the authority of the decision. On the other hand, if it is not made public, certainly that consequence does not follow; but your Lordships do not get any practical advantage from their advice, inasmuch as you do not follow it.

401. My question was based upon the supposition that those Assistant Judges were to have votes in the House of Lords?

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I do not understand myself, though speaking with profound deference upon the point, how it should be determined to retain the jurisdiction in your Lordships' House, and at the same time to give votes to persons who are not members of it. The other disadvantage I was going to mention is, that if you frequently have recourse to the assistance of Judges upon the Bench, even in England, you interfere very much with the daily administration of justice: to send for them from Scotland would appear to me, I confess, to be a difficulty which you could not overcome.

402. *Chairman.*] Would not there be this difficulty also, that till you have heard, or at all events partially heard the case, you do not know whether it is a case in which to summon one description of Judge or another?

Certainly.

403. Earl *Grey.*] Would not there be this objection to a system which makes it uncertain beforehand what Judges are to be summoned, that there must be some danger of suspicion resting upon the authority which makes the selection of the Judges for a particular appeal?

I think cases do from time to time occur in which that unquestionably might happen, and in which it would be found to be a very great inconvenience to place in any hands the power of selection. Cases have happened, which I could mention, in which that inconvenience would be illustrated.

404. Questions relating to church rates or tithes, or various subjects of that kind might arise, in which it would be inconvenient to place in the hands of any person the power of choosing the Judges, by whom questions of that kind were to be determined in the last resort?

Yes; experience shows that upon questions of that kind, it naturally happens that the most high-minded men bring certain general principles to their consideration, which have a great influence upon the determination to which they come. In four or five semi-political cases which occur to my mind, if you were to trace the circumstances of the different cases, and see what opinions had been given by Judges upon them, you would generally find that the Judges have arrived at those conclusions which might have been expected from the known complexion of their political views.

405. Earl of *Derby.*] Has experience shown, that that inconvenience has been felt in cases before the Judicial Committee of the Privy Council where such a selection is made?

I never recollect it there; but cases of that kind are not quite so likely to arise in the Judicial Committee.

406. Cases from the Prerogative Court, for example?

In cases of Church doctrine, I can imagine it; one is not sure that the inconvenience may not have been felt in such cases.

407. *Chairman.*] In the Gorham case, was not it thought that there was such a difficulty?

Yes, it was.

408. Still you never heard it suggested that any opinions given in such cases were not perfectly honest?

Never.

409. Earl of *Derby.*] I understand the summary of your recommendations to be, that the Court, whatever it be, should remain open during the whole of the year, or at all events the whole of the judicial year; and that for the purpose of constituting it, there should be a number of Peerages created for life, certainly exceeding three; I do not know whether you stated the maximum number?

No; I should think five would generally be the maximum; my own impression is, for many obvious reasons, that the smallest number which will answer the purpose would be the best.

410. And you think that one of those Judges should always be taken from the Bench of Scotland?

I should think it a great advantage to have a man of great eminence, selected from those who are or have been on the Bench of Scotland, to be a member of this tribunal.

411. And

411. And that those Peers holding their seats for life should be capable of resigning them, and of being succeeded by other judicial Peers, they still remaining Members of the House of Lords?
Yes.

412. Lord *Sundridge.*] Your opinion as to the number is a little dependent upon the supposition that some of those Peers who might accept Peerages for life should bind themselves to attend constantly, and for a stipend?
All of them.

413. Earl *Stanhope.*] The witness who preceded you favoured us with his opinion as to the amount of the stipend which he thought desirable in the case of the Assistant Judges; have you formed any opinion upon that point?
I have not; I should not like to hazard an opinion about it.

414. Lord *Lyndhurst.*] What restrictions would you impose upon the resignation of such Judges?
That is a very difficult question.

415. *Lord Privy Seal.*] Would they resign their salaries at the same time as their office?
Yes; I do not see my way to answer your Lordship's question upon that point just put to me.

416. Lord *Lyndhurst.*] Have you ever considered the question as to the proper salary to give to such Judges?
I should not like to make a definite suggestion about it; it ought to be as great, I presume, as the salary of a Chief Justice.

417. So as to make the party unwilling to resign?
Yes.

418. Earl of *Ellenborough.*] Would not this be a convenient arrangement, that any person who might have served for ten years as a Judge in a Superior Court of Common Law or Equity should, on being made a Peer for life, and appointed to the Judicial Committee in the House of Lords, receive precisely the same amount of salary which he had received in his previous situation, whether he were Chief Baron or Chief Justice of the Common Pleas, or a Judge only, or a member of a Court of Equity; and that upon his ceasing to be a member of the Judicial Committee, he should have the same retiring allowance which he would have had if he had remained during the required time in his previous office?
I should have thought that the inequality which that principle introduces would have been objectionable.

419. Lord *Brougham.*] He might receive, while he was a member of this new Judicial Committee of the House of Lords, 8,000 *l.* a year; but if he resigned that office from bad health, or any other reason, he should then fall back on the retiring pension which he had the right to before leaving his own Court?
Yes.

420. Lord *Lyndhurst.*] Would not you consider that the time he spent in the House of Lords, in addition to the time he spent in the Court below, should be reckoned, to make up the length of service which would entitle him to a retiring pension?
Yes.

421. Earl of *Ellenborough.*] The Chief Justice of the Queen's Bench has 8,000 *l.* a year?
Yes.

422. What is the salary of a Puisne Judge?
Five thousand pounds.

423. Would not there be an objection to a Puisne Judge taking this situation, and a life Peerage with a salary of 8,000 *l.*, having previously had only 5,000 *l.*, while the Chief Justice himself stood exactly in the same position?
It would only be raising one on account of his great eminence, and the great reputation he might have acquired, to a position equivalent to that of Chief Justice. My Lord Chancellor was a Puisne Baron in the Court of Exchequer; he

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he is now raised to the position which he holds; but no one feels because he was a Puisne Baron that the Chief Baron is a sufferer.

424. Lord *Brougham.*] Do you consider that the work and labour which the Judges would have to perform in the House of Lords, even supposing the Court sat for nine months in the year, would amount to anything like the labour of sitting four or five days in a week the whole year round?

No; not so much as that.

425. Therefore, would not 3,000 *l.* a year for sitting three days in the week, the Chief Justice having but 8,000 *l.* a year, with the expense of his circuit deducted, for sitting six days in the week, be a liberal allowance?

Of course we cannot measure the importance to the public of maintaining the authority of a Court of Final Judicature entirely by the number of days in a week which may be occupied in actual work.

426. *Lord Privy Seal.*] You wish to secure the highest authorities for the highest Court of Appeal?

Yes.

427. For that purpose, you must offer them rewards, equivalent, at least, to anything to be found in other Courts?

Yes. In all I have said, I have been going upon the assumption, that your Lordships intend to retain the jurisdiction.

428. Lord *Brougham.*] Should not the amount of remuneration to be given to those persons whose assistance you wish to secure depend somewhat upon the amount of the labour which they would have to perform?

I have already said that I do not profess that my opinion is entitled to any particular weight upon that point. It is not a part of the subject on which I feel myself to have peculiar qualifications to give an opinion. If your Lordships think the dignity of that class of Judges would be sufficiently maintained by their having a less salary, that would undoubtedly be a good reason for giving them less.

429. Six thousand pounds a year, sitting three days in a week, might be more acceptable to some persons than 8,000 *l.*, having to sit six days a week?

It is possible.

The Witness withdraws.

John Rolt, Esq., Q. C.

JOHN ROLT, Esquire, Q. C., is called in, and examined as follows:

430. *Chairman.*] HOW long have you been at the Bar?

Seventeen or eighteen years; I have been a Queen's Counsel for about nine or ten years.

431. Since you have been a Queen's Counsel, have you had considerable practice at the Bar of the House of Lords?

Yes; and before that time also.

432. How far back does your experience, as to the nature of that tribunal, enable you to speak of it?

Upwards of 10 years.

433. Earl of *Derby.*] Have you had any experience, also, before the Judicial Committee of the Privy Council?

Yes; but not so much as in the House of Lords. I have been very much engaged in Scotch appeals, as well as in English and Irish appeals, during the whole period I speak of.

434. *Chairman.*] You had considerable experience in the House of Lords during the Chancellorship of Lord Cottenham, on the last occasion he was Chancellor?

Yes.

435. Will you state to the Committee what opinion you have formed, from your experience, as to the mode in which the judicial business has been conducted before the House of Lords, or any defects which have existed in it?

I think it has been admirably conducted. I think it may require some regulation, provided that regulation can be made consistently with the House retaining the jurisdiction; but I think it of great importance to the public concerned in the administration of justice that the House should retain the jurisdiction.

436. On what ground do you think it important?

I think it of great importance that there should be one tribunal for the United Kingdom, if not including the colonies, which are not at present in question; certainly there should be one for the United Kingdom.

437. Earl of *Ellenborough.*] If the House of Lords did not retain its jurisdiction, would not the House lose the advantage of the judicial services of those Peers who have filled the office of Lord Chancellor?

Yes; but independently of that, I think, in the result, speaking as one must speak of every tribunal with reference to considerable periods of time, the public have justice well administered, and wisely administered. The law of both countries—both Scotland and England—has been wisely and impartially administered. I think, besides, that the public derive satisfaction, or, the decisions receive at all events additional value, on account of the dignity of the tribunal: I think that is of much importance in a final Court of Appeal. Of course it would be nothing if we had not wisdom and impartiality of decision, so far as they can be expected to be obtained in any human tribunal; but having that, if we have also the greatest dignity which can be given to the ultimate Court of Appeal, it is a matter of much importance, in my opinion. Again, I know of no means by which you could have one tribunal for England, Ireland and Scotland, other than having it in this House.

438. *Chairman.*] Are you aware that one of the Articles of the Act of Union with Scotland is, that there should, on no pretence, be any appeal to any Court in Westminster Hall?

I had not adverted to that; but I think the feeling in Scotland would not require any such step as the removal of the jurisdiction from this House. The only matter which has occurred to me to require regulation, if it were practicable, is, that there should be in some way or another a duty imposed upon the law Lords, who have during the whole of my practice administered your Lordships' jurisdiction, to attend, so as to insure that attendance as a duty, and that it should not be a mere voluntary attendance, which they would not consider themselves under any special obligation to fulfil: I think that is the chief matter of regulation required, if it can be arrived at; but I think, in practice, the want of such an obligation is of such comparatively small importance, that I should not think it necessary upon that account to disturb the jurisdiction, or alter or remove it. Another matter of regulation, if it could be adopted, would appear to me to be this: to dispense with the necessity of the attendance of lay Peers: it gives a handle to observation and ridicule, which is unnecessary. If it could be dispensed with, it would be advantageous; if not, it would be too great a price to give up the jurisdiction on account of any inconvenience resulting from that arrangement. The other matter which would require regulation, in my humble judgment, relates to the mode of taking the opinions of the Judges. It appears to me that if the exact question in the cause is asked, and you have the opinions of the Judges one way,—the House coming to a contrary conclusion,—it tends to shake the confidence of the public in the Judges: I think that is a matter of some moment, and those are the matters which appear to me to require regulation.

439. Does your experience enable you to say whether the decisions of the House of Lords have been tolerably satisfactory to the litigant parties, as contradistinguished from their professional advisers; have losing parties generally acquiesced in them without feeling that injustice has been done them?

The losing party is never satisfied; but, generally, they have been as well satisfied, I think I may say more satisfied, with the decisions of the House of Lords than any other tribunal I have ever practised before.

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440. Have the cases been understood by the parties litigant to have been fully and cautiously examined by the Judges who have given their opinions?

I am satisfied that that is the general impression among the suitors. Disappointed suitors say they are dissatisfied, but I have not heard disappointed suitors say that their case had not been well or carefully examined. I have heard them say, as disappointed suitors and counsel will say, the Judges did not understand it, and have not understood it.

441. Earl of *Derby*.] With respect to the opinions of the Bar generally, do you think they regard the tribunal as satisfactory as at present constituted?

There are exceptions; it may be a matter of temper sometimes; all of us sometimes find fault; but, speaking generally of those who are competent to judge, I think they are satisfied.

442. Lord *Lyndhurst*.] What should you say as to the solicitors; is it satisfactory to them in general?

I think so; and I may say I believe the Scotch agents, in particular, feel that the matters are fully and carefully examined here.

443. Earl of *Derby*.] In conversation have you heard any objection taken to the tribunal as at present constituted?

One ground of objection, and that has not been as to the result, but as to the mode of exercising the jurisdiction, has been that it will sometimes happen that a Peer may leave the House for a time while the argument is going on, and yet take part in the decision. I do not recollect to have heard any other ground of objection.

444. *Chairman*.] Does your experience lead you to the conclusion that it ever really happens that there is any absence which can interfere with the competency of a Peer to come to a decision on the subject?

If we are to assume that all the arguments of counsel are of weight, it may occasionally be so; but I think, practically, no material part in any decision is taken by any Peer after an absence which should prevent him from taking part in it; at the same time there is no doubt the suitor is not satisfied at any absence.

445. Lord *Lyndhurst*.] If you, as counsel, had urged, as you always do, a very forcible argument during the absence of that Peer, upon his return probably you would repeat your argument?

I have always intended to do so, and may sometimes be deemed tedious in consequence.

446. Lord *St. Leonards*.] You do not speak of a temporary absence for a few minutes?

No; I do not often, elsewhere, argue before several Judges; but if I do, I do not stop because one of them goes out for a minute.

447. Earl of *Derby*.] Would you consider that the tribunal was perfectly satisfactory if you could at all times secure the attendance of three Judges as qualified as those who now sit to hear appeals in the House are?

I should think it quite satisfactory.

448. You would not require that there should be a larger number than three?

I should desire to limit the actual attendance to three. What I should like to see would be a Committee of the House of Peers, as now constituted, appointed by the House to hear appeals.

449. Lord *Sundridge*.] Sitting longer than the Session of Parliament?

I see no necessity for that. The appeals are not in arrear, and they have not, during my experience, been considerably in arrear. I do not think there is any very great advantage gained by having appeals instantly heard; but, on the contrary, it encourages idle appeals. I do not think there should be any great delay, but I think the delay of a Session not prejudicial. Cases are well decided upon the average before they come here; and upon small matters, appeals, I think, should not be encouraged.

450. *Lord Privy Seal*.] In cases of injunctions, do you see no inconvenience from the delay which is interposed?

Cases of injunction are very seldom appealed to this House, because all that is

is done by an interlocutory order for an injunction is to leave the matter *in statu quo* till the time for the decision of the case arrives. I do not recollect having been engaged in more than one case of appeal upon an injunction to the House of Lords.

451. Earl of *Derby.*] Would your answer with respect to the matter being left *in statu quo*, apply to cases where the injunction was refused?

No; but there is always an appeal from the first decision to another Court; and, practically speaking from my own experience, I do not recollect ever having been asked either, when the House has been sitting or when it has not been sitting, to bring an appeal as to the refusal of an injunction to this House.

452. *Lord Privy Seal.*] Are not you aware, from your experience, that the want of facility for appealing in the case of injunctions has sometimes been pleaded as a reason for not bringing a case up to this House?

I have never been consulted on nor do I recollect any case in which that has happened.

453. Earl of *Derby.*] The Committee understand that you have practised a good deal in Scotch appeals; have you heard of any complaint from Scotland as to the absence of Judges from the House of Lords, who are conversant with the Scotch law?

To say that I have not heard any complaint would be going too far, perhaps. I am not much in communication with the parties themselves; indeed, I very seldom see them; it is chiefly with the agents I am in communication. I may have heard an agent say in a particular case, that he did not think a point of Scotch law was understood; but I do not recollect even that; certainly, it is not a topic of complaint.

454. Lord *Lyndhurst.*] Do you think that Scotch appeals are decided as well as appeals from the Court of Queen's Bench and the Courts of Equity?

As far as I am able to judge, they are.

455. And you have had considerable experience in Scotch appeals?

I have.

456. Earl of *Derby.*] In those appeals have you usually had the assistance of counsel from Scotland acting with you?

Not always, though I frequently have; but we have very intelligent agents.

457. As regards counsel who have been with you in a case, have you heard objections made by them that there has been a want of knowledge of the Scotch law?

Never by the successful party, certainly; we get the usual complaints of those who do not succeed; I think Scotch advocates are exceedingly fair and candid, and that has not usually been part of their complaint.

458. *Lord Privy Seal.*] Have you ever heard them say that they derive great advantage from the peculiar acquaintance with the Scotch law which one noble and learned Lord possesses in this House?

I do not think any such distinction has been made between the Peers who have heard cases.

459. Lord *Brougham.*] Are not the Scotch solicitors very intelligent persons in their profession?

Most intelligent.

460. Confining themselves to cases of Scotch law?

Confining themselves to cases of Scotch law.

461. Lord *Lyndhurst.*] In Scotch appeals, cases are printed, setting forth the judgments given in the Courts below, are not they?

Yes; and that circumstance greatly assists English counsel in understanding the points of law, and being prepared to discuss them.

462. *Chairman.*] You say you have often argued Scotch appeals with the assistance of a Scotch counsel; is it your experience that in general the Scotch people trust the main conduct of their causes to English counsel or to Scotch counsel?

To English counsel; I do not mean that it is always the case; but frequently they do so. If indeed they could always obtain the assistance of

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the more experienced members of the Scotch Bar, I do not mean that they would not prefer their assistance to any English assistance.

463. Marquess of *Lansdowne.*] Is there any dissatisfaction felt by clients in general, independently of the justice of the decisions, at the amount of the expense incurred in proceedings before the House of Lords, as compared with other Courts?

That does not come under my notice at all; so little does it do so, that I am not informed as to what really is the expense of an appeal to the House of Lords.

464. Lord *Brougham.*] You know that a vast number of cases are disposed of in the Courts of Equity upon motion, and that upon every such order of a Court an appeal lies to the House of Lords; is not it true that there are very few appeals upon orders upon motion?

Very few indeed; I recollect only one: the case of the Carron Company was such a case; but I do not recollect another.

465. *Chairman.*] In the question just put to you, it is assumed that a great many causes are disposed of upon motion in the Court of Chancery; though that used to be the case, is it so now?

Motions are in a very different position now to that in which they were at the commencement of my practice. Causes were not heard so quickly then, though there was not any great delay; but now the whole object of the counsel and the Court upon a motion is to arrange terms for bringing on the cause for an early day, and, in the meantime, to keep things as they are; and Vice-Chancellor Wood, in whose Court I practise, makes it a rule, "If you can arrange so as not to discuss this motion, I will advance the cause. If to save the time of the public, you avoid the discussion of the motion, I will advance the cause." Consequently, we do always, where it is possible, arrange the terms of the motion, and the cause is advanced.

466. Lord *Brougham.*] Such motions as that could not give rise to an appeal, however much reduced the expense of appealing might be?

There could be no appeal, because the order is by consent.

467. *Chairman.*] Practically, is it your opinion that if there were no right by law to appeal against a motion, any great injustice would be done to suitors?

None; there are very few motions appealed even to the Lords Justices compared with the large number of motions which come before the Courts.

468. With respect to the facility for appealing to the House of Lords, are you able to say what number of appeals there are in each year to the House of Lords from decisions in equity?

I have not taken an account of them; they have been comparatively few from England and Ireland together; they have not equalled the Scotch appeals.

469. Lord *Lyndhurst.*] Are there 20 in the year?

Nothing like that number—speaking only from recollection.

470. *Chairman.*] Does it occur to you that, in truth, the suitors in the Court of Chancery are very anxious to come to the House of Lords, having had their cases heard, if they please, twice?

I think the cases are very few in which the case, having been twice discussed, the suitors desire to come to the House of Lords.

471. Earl of *Derby.*] Do you think the fact of the case having been decided in the Court of Chancery by the Lord Chancellor, and the Lord Chancellor being one of the members of the Court above, has anything to do with their reluctance to appeal from the same individual to the same?

It may have some influence; and if it were supposed that the Lord Chancellor would hear the case in the House of Lords alone, it would probably have more.

472. According to the present practice, the Lord Chancellor can hear even a case involving an appeal from his own judgment alone; do you think that that ought to be prevented?

It ought to be prevented if it is possible; but, practically speaking, it does not

not operate to so great an extent as might be supposed. In advising an appeal, we always take for granted that the Lord Chancellor will, if he can possibly do so, take pains to secure the assistance of other noble and learned Lords in reviewing his own decision; and there is also the possibility that there may be a change before the appeal is heard; I think that apprehension would not prevent an appeal.

473. Earl *Stanhope.*] Do not you think it essential that three should be fixed on as the minimum number of Judges to be present, without the assistance of whom no decision should be arrived at?

I should say that would be a very great advantage; I should hardly be prepared to say that it was essential.

474. You would not impose that as a necessary condition?

Not if it were to have the effect of removing the jurisdiction from the House.

475. Lord *Brougham.*] Would you prefer a Court of three to a Court of five?

I should.

476. Supposing, in the Court of Chancery, the Vice-Chancellor having decided a case in one way, there is an appeal to the Lord Chancellor, or the Lords Justices, which is affirmed, and suppose then there is an appeal to a Court of three in the House of Lords, which is decided by a majority of two to one; will not there be four Judges one way, and two another, overruling them in the final result?

No doubt of it.

477. Supposing you had a Court of five, the same thing might happen, only there might be three one way, and six another?

I should think that would be immaterial; the ultimate Court must decide, and you must not count the votes below.

478. Lord *Sundridge.*] Do you attach much importance to the judgment in an appeal being given as the judgment of the Court, without there being an expression of any difference of opinion on the part of those who may dissent from it?

I have not considered that question; I should prefer hearing the opinions of all the members of the Court.

479. Even in a Court of final ultimate appeal?

I think so; it is open to some objection no doubt.

480. Lord *Brougham.*] You would prefer the opinions being given seriatim?

If there were three Judges, there must be two who affirm, and I think it would be an advantage to have all three opinions stated.

481. Lord *Sundridge.*] What is the advantage which you would anticipate, there being no other Court to appeal to?

The discussion of the principles and the antagonism of opinion would enable the legal public to settle or apply the principles which were in question better than if there were no such statement.

482. *Lord Privy Seal.*] You wish the ultimate settlement of the question to rest with the legal public, and not with the tribunal?

The object is that the legal public who have to assist in the administration of the law, may know what the law is, and be able to apply it.

483. Will they arrive at that knowledge more readily by hearing the opinions of the minority than by hearing the judgment given as the judgment of the Court?

By hearing all the opinions, I think.

484. Earl of *Derby.*] Do you think, in a case where there are two Judges sitting in a Court of Appeal, and the consequence of their differing is that the judgment below is not reversed, it is desirable that those two Judges should deliver their conflicting opinions seriatim; does not that tend to render the law somewhat uncertain?

I do not think it tends to leave the law uncertain; but it is unsatisfactory to the suitors.

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485. Lord *St. Leonards.*] Not because the opinions are expressed?
No; I think the same result would follow if they were not. If the argument tends to elucidate the law, and settle the principle, it must be the same, whether there are two or three Judges.

486. Earl of *Derby.*] Would you think it satisfactory that in that case there should be a re-hearing?
It would be very objectionable as a system.

487. Lord *St. Leonards.*] Do you recollect when the House did not give reasons for affirming?
I do not recollect any case in which the House has affirmed without reasons.

488. They used to do so. Is not it very beneficial that the House should give reasons even for its affirmance?
I think it is very important.

489. Does not the House, in giving reasons, give greater satisfaction to the suitors?
I think it does.

490. It tends to keep the law right?
I think it does. In Brown's Parliamentary Reports we have no reasons whatever stated, and the reports are of comparatively little value.

491. Earl of *Ellenborough.*] If a Peer who sits upon an Appeal is required to deliver a judgment, it renders him more careful in forming his opinion, does not it?
It must have that effect; at all events it leaves the impression upon the mind of the suitor that it has been considered; he sees that his case has been anxiously considered, and the facts are well known; if reasons are not stated, the suitor may be led to the conclusion that it is simply affirmed without much consideration.

492. Lord *St. Leonards.*] Supposing there to be three Judges, and two were of one opinion and one another, and the judgment were delivered by one of the two in the name of the whole, without at all mentioning the difference of opinion, do you think that would lead, on the part of the Judges, to considerable laxity in their labour in the investigation of the case, and coming to a conclusion in point of law?
I think it might; it has often occurred to me, with respect to a Court of three Judges as compared to a tribunal consisting of one Judge, that the mere fact of there being three, would lead to some degree of laxity, or some leaning of one upon another; but if you have the expressed opinion of the three, it will not have that effect so much.

493. Lord *Sundridge.*] Is it supposed to have that effect in the Judicial Committee of the Privy Council?
I speak rather from the ordinary course of motives operating upon action; I know nothing of the particular working of it in the Judicial Committee, any more than I do elsewhere; but I think it may have that effect.

494. Earl *Stanhope.*] Does not it generally increase the dissatisfaction of the suitors when they find conflicting opinions expressed?
That is an inconvenience which must be submitted to for the sake of other advantages. Indeed not infrequently I think the disappointed suitor is glad to find, from the difference of opinion, that his appeal cannot be deemed frivolous.

495. Lord *St. Leonards.*] What is the case with regard to the Judges when they give their opinions to the House; do they not constantly differ in opinion with each other?
They do frequently, but not to any very great extent; one or two or more may differ out of the entire body, though sometimes it is a very near division.

496. Lord *Lyndhurst.*] Are you aware that in the Judicial Committee of the Privy Council the judgment which is written by one of the learned Judges is handed round to all the different members who heard the cause, that they may make such observations upon it as they may think necessary?
I did not know it as a fact, though I supposed it to have been so.

497. *Chairman.*]

497. *Chairman.*] You are not familiar, you say, with the expense attendant upon proceedings in the House of Lords; are you able to form any opinion at all whether the preparation of the case for the House of Lords is a matter likely to lead to considerable expense?

It must create some considerable expense; but I think that the administration of justice in the suit is very much benefited by it.

498. You think it would not do as well to have merely the same papers which were before the Court below, sent up to the House of Lords, and a sufficient number of copies made of them, without having them reduced into the form of a sketch and succinct statement of the case?

I should not think it so satisfactory.

499. The case is generally prepared by counsel, is it not?

It is usually prepared by the junior counsel, and settled by the leader.

500. That must lead to considerable expense?

Yes; but it leads to a careful consideration of the case, and the law is better brought out.

501. Lord *Lyndhurst.*] There are two cases, one for each side, are there not?

Yes; and a joint appendix.

502. Lord *St. Leonards.*] What do you think of the necessity of stating the whole case upon the petition of appeal?

I think the petition of appeal may be reduced to the merest skeleton which the Order of the House may prescribe. I never read a petition of appeal to this House through in my life; it is little better than waste-paper; but in the case of counsel who are engaged in much business, I do not know how they could get through their business if they had not the case prepared.

503. Earl of *Derby.*] Is the preparation of the petition of appeal a matter of considerable expense?

I apprehend it must be; the cases are for counsel and the House, and they are prepared by counsel; but I suppose all the documents in the cause are strung together for the petition of appeal; and then there is a form of prayer at the end. No one ever reads it that I am aware of.

504. Lord *St. Leonards.*] Is it your opinion that the expense of that might be very considerably lessened?

I think so.

505. Are there any other alterations you would suggest for the purpose of the diminution of the expense of appeals to the House of Lords?

I think when there is an appeal, and a cross appeal, an Order of the House might consolidate them, and probably this is often done; sometimes, from inadvertence, it is not so. It has sometimes occurred to me, especially in appeals from Scotland, to see an appeal, and cross appeal, and counsel on each side in a matter of small amount; and there have been bar fees for three or four days in the double appeals. The House could always cure that, by saying that they should be treated as one appeal.

506. *Chairman.*] To what do you attribute the prevalence of Scotch appeals?

I asked an eminent Scotch advocate the other day, and he said, "It is the consistency of our character; having taken up a view, we maintain it."

507. Lord *Lyndhurst.*] There are very few Scotch appeals at present in the paper, are there not?

I believe that is entirely the result of accident, and that the appeals on their way to the House are more numerous than they have been for a considerable time.

508. Lord *Brougham.*] Is not that owing to there having been, from some accidental circumstance, a very small number of appeals last year?

I really do not know; but I think it must be a mere accident; the cause of it I do not know.

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509. *Chairman.*] Is there any other observation which occurs to you?

No: the result of what occurs to me upon this subject would be, that if this House could provide out of its own members a Committee of four or five, of whom three should be bound to sit to hear appeals, dispensing with the attendance of lay Peers, it would be as perfect a tribunal as we could ever hope to see.

510. Lord *Sundridge.*] Would you have them paid?

I suppose that would be the only means by which your Lordships could make it in any sense an obligation.

511. Earl of *Derby.*] With that exception, you see nothing which you desire to alter in the existing constitution of the tribunal?

No, with that exception, and the other, which I also mentioned, namely, asking the opinions of the Judges, and not following them, which would appear to me to be open to observation: I do not impugn the wisdom of the House in not following them, but it tends to destroy the authority of the Judges.

512. Would you consider it desirable that the House should have the power, if it has it not at present, of taking the assistance of the Judges in Equity, as well as the Judges at Common Law?

Certainly; but it would be open to the same observation if the opinion were taken, and were not always followed. It is hardly expedient, I think, to take the opinion of the Judges directly upon the question at issue, though sometimes it may be useful to take their opinion upon some point which illustrates the principle under discussion.

513. Lord *St. Leonards.*] Are you aware that the House formerly never put the question which was directly involved in an appeal?

That would avoid the objection to which I have referred. I would only further desire to say, that it appears to me, that anything short of a Committee of the House itself being appointed to determine appeals, would cause great embarrassment in Scotland; and that, referring the decision of any Scotch questions to any Assistant Judge who was not a Member of the House, would be received with great dissatisfaction in that country. They may submit to and approve the administration of justice in a tribunal which may be looked upon as their own; but they would object to English Judges who were not Members of this House taking any part in the decision of cases.

514. *Chairman.*] Are you aware that in a case which came before Lord Truro, depending upon the construction of a recent Railway Act of Parliament, he proposed to call for the assistance of the English Judges, but considerable objections were expressed to his doing so?

I have some recollection of such a case; but it is so long since, that I cannot remember the circumstances of the case: my observation extended to this House parting with the determination of a case to any one who was not a Peer of the United Kingdom.

515. *Lord Privy Seal.*] Should you desire to see the jurisdiction of the Judicial Committee of the Privy Council transferred to the House of Lords?

I should be very glad to see it transferred to the House of Lords; I think one imperial tribunal would better administer the law, and that it would be of great importance to the empire that there should be one tribunal for the administration of the law as a final Court of Appeal. That might render it necessary to have a larger Committee, and there may be difficulties involved in such a plan, which would render it impossible to be carried into execution.

516. Would there be any objection on the part of any of the dependencies of the British Empire to have all causes decided by a House of the Legislature?

I should think none.

517. The Norman Islands especially always put it forward that they depend directly on the Crown, do not they?

There may be questions of that kind referring to particular colonies, which I have not considered.

518. *Chairman.*] Would not there be this practical objection to bringing the business of the Judicial Committee to the House of Lords, that although we may

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may hope the House of Lords may get through its own business in the Session without arrear, it would be unable to do so if the business of the Judicial Committee were added to that?

The wiser course probably would be, that it should remain as it is: the suggestion occurred to me, but there are very likely difficulties in the way of its being carried into effect.

519. Lord *Brougham.*] Has not the Queen in Council a legislative power, as to a considerable number of English Colonies, which the House of Lords would not have?

That is so; the transfer of the business from the Privy Council to the House of Lords is not a matter which I have considered with any attention.

520. *Lord Privy Seal.*] *A priori*, you would rather prefer that there should be one tribunal deciding causes on appeal?

If there were not difficulties in the way, I should prefer one tribunal.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to Thursday next, Two o'clock.

Die Jovis, 13° *Martii* 1856.

LORDS PRESENT:

Lord Chancellor.	Viscount Gordon.
Lord President.	Lord Sundridge.
Lord Privy Seal.	Lord Lyndhurst.
Marquess of Lansdowne.	Lord Brougham and Vaux.
Earl of Derby.	Lord Abinger.
Earl Stanhope.	Lord Elgin.
Earl of Ellenborough.	

THE LORD CHANCELLOR in the Chair.

Evidence on the Appellate Jurisdiction of the House.

The Right Hon. James Moncreiff, M. P.

13th March 1856.

The Right Honourable JAMES MONCREIFF (the Lord Advocate of Scotland), a Member of the House of Commons, attending, is examined.

521. *Chairman.*] YOU are Lord Advocate?
I am.

522. How long have you been in the habit of practising at the Bar of the House of Lords?
Occasionally since 1839 or 1840. The first appeal in which I was counsel was in 1839, and from that time until I held my present office, I have occasionally been before the House of Lords in appeal cases; and since I have been Lord Advocate I have been frequently so. I was Lord Advocate for the first time in 1851, and again in 1853 until now.

523. During that time you have been more or less familiar with the practice at the Bar of the House of Lords; what has been the observation you have made as to the satisfactory or unsatisfactory nature of the tribunal?
I presume I may speak, not only from what I have myself seen in practice, but also as a Scotch lawyer, upon the working of the Appellate Jurisdiction generally. I might have some observations to make upon the general working of the system, independently of the character of the House of Lords as a Court of the last resort in Scotch cases; but I presume the Committee will permit me to address my observations, in the first place, and more particularly to the last of those matters, because the Appellate Jurisdiction of the House of Lords as a Court of Appeal from Scotland excites a great deal of interest in Scotland, and it is a subject upon which I think there is room for very great consideration. My opinion generally is, that as a Court of Appeal in Scotch cases, the House of Lords is anomalously constituted, and has been so throughout; and while I am far from saying that very material advantages have not been derived by Scotland in the course of the administration of the law in the House of Lords, I think those benefits have, on the whole, been finally produced, and that the evils of the anomalous nature of the tribunal are more sensibly felt now than they used to be. The anomaly in the constitution of the Court is perfectly obvious. Before the Union there was, or at least there was contended for, what was called a Protest for Remeid of Law from Judgments of the Court of Session to the Parliament of Scotland; that was contested, however, by the Court of Session during a long period of years; and in 1672 a contest arose between the Court and the Bar, which grew to so great a height, that the Court of Session banished the advocates to Linlithgow, for refusing to coincide in their views, and to give up the right of protest for remeid of law to the Scottish Parliament. I have extracted a passage from Erskine's work upon this subject: he says, "When, therefore, an appeal was offered to Parliament in 1674 against a decree of the Session, the Judges ordained the appellants' counsel

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to confess or deny whether they had advised their client to that measure; and, upon their declining to answer, the Court, after debarring those advocates from the exercise of their offices, applied to the Privy Council, who banished, not them only, but all the other advocates who would not declare their abhorrence of such appeals, 12 miles from Edinburgh; and, under this sentence, many of the most eminent lawyers continued for several months, till the Court, at the King's desire, restored them upon their disclaiming the right of parties to appeal." If I recollect right, there was some discussion on this subject in the Montrose case; there was in that case a question as to whether the Parliament had the power of reducing and setting aside a sentence of the Court of Session. In 1688, the Estates inserted in their claim of right a claim for the right of all parties to protest to Parliament for remeid of law. In the 13th and the 18th chapters of the Statutes of the Estates it will be found that that right was asserted. At the Union it does not appear that any particular consideration was given to the right of appeal, nor does it, even as regards the ancient Parliament of Scotland, seem to have been exercised in the fashion of an ordinary Court of Appeal; it was more a protest to Parliament against iniquity than an appeal to another court of law. From the time of the Union down to the present time, there never has been an instance of a lawyer who had been in extensive practice in Scotland sitting in the House of Lords, the Court of the last resort. I do not at all mean to say that there have not been very eminent men, well acquainted with the law of Scotland, who have taken part in the Appellate Jurisdiction. Lord Hardwicke, I believe, was a very learned Scotch lawyer; Lord Mansfield was so too, as far as the study of Scotch law went from institutional writers. Lord Loughborough was originally a Scotch barrister; and I speak in the presence of one of your Lordships, who also greatly distinguishes our body. These however were accidents. What I mean to say is this, that there never has sat in the House of Lords a lawyer whose position would naturally have led him to promotion in the profession of the Scotch law. We know very well that the mere study of the law theoretically is not sufficient to qualify a lawyer for the position of a Judge, and that practice is almost essential in order to enable him to deal with or grapple with the ordinary business of the Court. As regards the Judges themselves, it has been laid down by a very great authority, that unless a Judge has his hands tolerably full of work, his judicial mind cannot retain its vigour, nor is he equally able to grapple with the niceties and important principles which necessarily arise. Therefore the fact, that we have as a Court of the last resort for Scotland a tribunal which never is composed of men of the stamp which, in either country, would be looked for among the ordinary Judges, is, I think, a very anomalous state of things.

524. Lord *Brougham.*] Were not Lord Hardwicke, Lord Loughborough and Lord Eldon in constant practice in Scotch appeals?

Yes, it is quite true; they had very great experience, unquestionably, in Scotch cases. But even admitting that, I should think mere practice in Scotch cases before the House of Lords does not and cannot of itself give the same knowledge of or facility in the system of law that a regular education, not only in the way of study, but of practice at the Bar would give. The knowledge so acquired is merely obtained for the occasion. I can quite conceive of Scotch counsel arguing English cases at the Bar of the House of Lords—they have done so—I did so during last Session, myself; and I can conceive that the practice might go to a very considerable extent; but I have no idea that practice of such a nature will ever make a man sufficiently conversant with the system of English jurisprudence to qualify him for the Bench in England.

525. Do you apprehend, from your knowledge of the Scotch Bench—I do not mean at present, or for the last 20 or 30 years, but looking a little back beyond that—that the average of the Judges of Scotland had as great a practical knowledge of the Scotch law as Lord Eldon and Lord Mansfield, from their practising in all Scotch cases in the House of Lords, had?

The average I must decline to speak of; but I should imagine—not to take the immediately preceding generation—such lawyers as President Campbell, Lord Glenlee, Lord Meadowbank, or, before that, Lord Pitfour, and the men of his time, were far more conversant with the principles of Scotch law.

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law. I take Lord Mansfield and Lord Eldon as two great names, because they are about the greatest names. If I were to take Lord King and Lord Bathurst, probably it might be otherwise. It is a little invidious to give names, but at the same time I think I could name some of them who would have been very little qualified for promotion to the Bench of Scotland, on any view of the average, but into whose hands the whole administration of the Appellate Jurisdiction might have come. My present observation goes to this, that a training in the system, and in the practical working of it, is important, and I think essential to the right administration of justice. But when we come to a Court of last resort, we are entitled there to expect that there shall be familiarity with the whole routine and system of the law both in principle and practice. I find that laid down in a pamphlet by my Lord St. Leonards, published in 1835: he says, "The great object of an Appellate Jurisdiction is at once to satisfy the justice of the individual case, and to keep the precedents uniform, and afford a standard for the inferior jurisdictions, and a sure guide for the practising lawyer. Whilst the law is unsteadily administered, no man at the Bar cares to give a decided opinion, because he cannot depend upon the Judge, and he justifies himself to the solicitors and the clients upon that ground. Everything upon which any possible doubt can be raised is thus forced into Court, and the very means adopted to ensure safety in the particular case increases the general mischief, until the law, instead of a blessing, becomes a curse to the people. To the first Judge of Appeal in this country is assigned the highest station, in order to give to his decisions the weight which power and dignity can add to their intrinsic merits. It is the homage which the State pays to the law. Such a Judge may properly take all the aid he can acquire upon particular cases; but the law will not be satisfactorily administered unless his own opinion be the most honoured, and that he act upon it so as to preserve one uniform rule." Therefore, it appears to me, on general principles, that the Court of the last resort for Scotch cases is composed in a way which would never be submitted to in regard to the law of England. I imagine it would be thought a most extraordinary proposition that Scotch lawyers, though they might have had some experience at the Bar of the House in English cases, should have given to them the exclusive Appellate Jurisdiction for English cases; and yet the education and the training of the Scotch Bar is at least as much conversant with the principles of general jurisprudence as that of England. I think I may say with safety it is more so, because the Scotch system, being founded, in its law of obligations and social relations, on the civil law, and in real property on the feudal law, is reducible to general principles; and the law of all the countries in Europe, in fact, is more or less cognate to it, and throws light upon it; whereas the common law of England is a system very much by itself. I think I may also say for Scotland, that I am not aware that the jurists of Scotland are inferior in any way whatever to those distinguished men who have distinguished the Bar and the Bench of England. I think Lord Stair probably stands as high as any English lawyer, or any lawyer of any country ever did; and, without going over names, there can be no doubt that the lawyers of Scotland have been an eminent, a highly educated and a very learned body. Now, having made these observations upon the general principle, let me just say, before I go from that, that an acquaintance with the forms of procedure appears to me, though not of the highest importance, still to be essential to a great Court of Appeal, because the Court of Appeal is required to fix the law; and the Court ought to see, not only what may be the right and the justice of each individual case, but ought to look all round and to see what the effect of the judgment will be upon the cognate questions which may arise in relation to it. Therefore, it appears to me that, without information upon the ordinary course of procedure, and familiarity with it, the Court of the last resort must necessarily to a certain extent fail in its working. I have made these observations by no means to disparage the way in which the Appellate Jurisdiction has, from the time of the Union till now, been administered. I said in the outset, and I say again, that I think it has been productive of a great many most important results. The main result to which I would speak, in the first instance, has been one of the greatest possible benefit to Scotland; I mean the purity of the administration of justice; the principles upon which justice is administered; the patience and attention, the conscientiousness and the

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industry which have been applied to the consideration of the cases: I think I may say, without offence, that improvement on these points was very much required for a very long period in the history of the administration of justice in Scotland. The Courts in Scotland, probably, have not for long been liable to the imputation put upon them in the time of Cromwell. There is no doubt, however, that Cromwell's Judges were the first Judges who administered the law impartially. Long after that, although the amount of purity no doubt increased, still political and personal motives weighed a great deal too much in the decisions in the Court of Session; and even after I came to the Bar, while much of this had disappeared, I recollect perfectly well the impatience with which counsel were heard. There had been a change from a system of written pleadings to a system of oral pleadings; and I recollect quite well, in both divisions of the Court, that instead of having a calm and impartial hearing of the case, it very seldom indeed happened, at that time, that a case was fully heard out. Before the opening Counsel had proceeded for ten minutes or a quarter of an hour, he was often stopped by some impatient observation. But I am happy to say, very much, I believe, from the example set in the House of Lords, very much from Lord Eldon's example, and very much from the example of those who have succeeded him, that that evil is entirely removed, and the hearing of causes now in the Court of Session is as deliberate, and the demeanour as courteous, and the procedure as becoming a Court of Law as we could wish it to be. I think I here may take the opportunity of tendering my acknowledgments, and I am sure I may speak in the name of all the Scotch counsel who have practised before your Lordships, for the courtesy, consideration and patience which have been uniformly shown to us in this House. Another advantage which the law of Scotland has derived is, that it has been illustrated, enlarged and extended, by having brought to bear upon it the great minds of the most eminent jurists of the sister country. It is impossible to deny that that has been a very great advantage; and when I am asked whether the judgments of Lord Hardwicke and others have not been high authority in Scotland, I say on many subjects they are of the very highest authority. Even where they have sometimes altered the law, they have altered it with advantage, and with authority. I need not refer to instances, but there are two, on a single branch of the law, which I may mention: one of which we derived from Lord Thurlow, and the other from Lord Cottenham—I mean upon the subject of trust—one, that a trustee cannot purchase an estate of which he himself is trustee, in the case of M'Kenzie *v.* the York Buildings Company; and the other, that a trustee cannot make a profit of his trust. That last principle was not the principle of the law of Scotland, at least it had not been enforced, but it is now universally acknowledged.

526. Has not the Scotch law itself, even the technical part of it, and that which is peculiar to Scotland, the law of real property, been kept very much what it was before, by the reversal of Scotch decisions in this House?

On that matter I think there may be possibly more doubt; to that subject I was now going to speak. It is quite true there have been many most able judgments upon the subject of real property in Scotland, and I believe that that remark, which one of your Lordships made just now, is in some cases true; but I was going to point out to the Committee how particularly anomalous the nature of the Appellate Tribunal is as regards the law of real property. The feudal system of Scotland partakes of the nature of an exact science: it is not to be mastered without not merely a great deal of study, but a practical acquaintance with the deeds themselves. Indeed, many a lawyer at the Scotch Bar gets into large practice without being a thorough conveyancer; still, without a practical knowledge of the working of the system, it is impossible for any one to arrive at the position of being a great feudal lawyer. Now, what would have been said of an appeal upon a question of feudal titles from Lord Stair even to Lord Somers, one of the greatest names of that time? But upon such a question as that, to appeal a judgment of a man, who had all his life studied the system, and was its ablest master, to a lawyer who, however great, was bred up in a system of real property entirely different, bears absurdity on the face of it. In regard to the past history of the Appellate Jurisdiction, it seems to me that, in the last century, Lord Hardwicke is the only one of the Judges who dealt with that matter as if he were conversant with it. Lord Hardwicke was conversant

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versant with it: whether he dealt with it entirely satisfactorily is a different question; but he dealt with it with the hand of a master. To some of Lord Mansfield's judgments the same observations might apply; but in the case of Lord Thurlow and Lord Loughborough, their reversals of Scotch cases on real property are very rare indeed; they seldom appeared to like to grapple with them. There are very few reversals of cases on real property during the time of Lord Thurlow or Lord Loughborough. I find also, during that period, even when the judgment was reversed, a remit was generally made to the Court of Session to re-consider the case. I find that Lord Eldon states, in more than one judgment, particularly in the case of Vans Agnew, in 1822, that when he first took his seat on the Woolsack he had conversed with Lord Loughborough and Lord Thurlow on that very matter, and that they said they had given a reason for those constant remits, which he would not state, but which he would privately communicate to any one who asked him. I presume the reason was that they thought the Court of Session had not addressed their minds to the question in the case. But during the time of Lord Thurlow and Lord Loughborough, while there are many important judgments on questions of demurrage, trust, bills of exchange, insurance, which relate to the law merchant, there are very few judgments reversing decisions of the Court of Session on questions of real property. On the question of entails, I am free to admit that the law has been methodized by the judgments of the House of Lords: Lord Eldon devoted himself with great assiduity to it; that at the end of his time it had been entirely worked out into a system may be doubtful; but subsequent judgments have now brought the law upon that matter to a very satisfactory position, and a much more satisfactory position than it held at the time of Lord Eldon's Chancellorship.

527. So that there are now very few appeals upon entails?

Very few appeals, and very few questions arise; most of the doubtful questions have been reduced to principles by decisions of the House of Lords; and, unquestionably, I think, the judgments have been upon that subject of very great benefit.

528. Did not the opinion of lawyers in Scotland in the Duntreath case, and the Tillicoultry case, after a few years of discontent with those reversals, subside into an approval of the judgments of the House of Lords?

I think, substantially, they did. During Lord Eldon's time there was not complete uniformity in the view he took; there was a time when what was called giving fair play to entails rather prevailed; but in the end I think the result of those cases of Edminstone *v.* Duntreath, and even the Roxburgh case itself, has been that lawyers have come to think that the judgments were right. The judgments since Lord Eldon's time have been very important. The judgments in Sharpe, and Murray, and Lumsden, and a variety of other cases, have been very able and very important. There is, however, another view of the question which it is necessary to take. While that is quite true, there have been, on the other hand, cases in the course of the administration of the Appellate Jurisdiction which it is impossible to look at without seeing that a remedy is required. For instance, Lord Eldon himself, learned as he was, in dealing with a question of arbitration, treated an Act of Sederunt of the Court of Session as if it had only been an order or rule of the Court, and he decided the case on the ground that the rule of a Court could not overcome the principles of eternal justice; but he was not aware of what every Scotch lawyer is aware, that this Act of Sederunt had been ratified by Parliament, and that in fact it was not a rule of a Court, but positive statute law.

529. Earl *Stanhope.*] In what year did that case occur?

In 1824.

530. Lord *Sundridge.*] Was not the fact brought to his knowledge by the counsel?

It seems doubtful whether there were any Scotch counsel employed.

531. *Chairman.*] That Act of Sederunt to the Act of Parliament of Charles the Second were brought under the cognizance of the House last Session, were not they?

Lord Brougham, in the case of M'Kenzie *v.* Girvan, put that matter right, and has now laid down the law in a way which has been held as conclu-

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sive. Lord Eldon's decision is reported in Mr. Dow's reports, and it must have taken place about 1824. Again, Lord Wynford pronounced a judgment which was so entirely inexplicable in the Court of Session, that there was a Bill brought into Parliament for re-hearing the parties before the House of Lords; and in the end your Lordships, by way of revising the journals, struck out the passage from the judgment.

532. Earl *Stanhope.*] In what year was that?

In the year 1830. That was a question about examining a party before a jury. Lord Wynford had sent a case to a special jury to examine parties; one of the parties was dead, which Lord Wynford did not know; but it was quite contrary to the principle of the Scotch law to examine parties before a jury, or before anybody. They were not capable of being examined at all. If I may take the liberty of mentioning another instance, there was a case in which Lord Brougham held that it was not competent to raise the question of the relevancy of an action after the defence had been stated. That was entirely contrary to our previous practice, and it has been contrary to our subsequent practice. The rule of pleading in Scotland has always been that the question of relevancy can only arise after the statements of the parties are completed, and in that respect it has no relation to a demurrer in England. So completely has that been held to be the case, that Lord Brougham, in the case of Kirkpatrick, took the view that the question of relevancy could be considered, not only after the statements were completed, but even after the case had gone to a jury, and had been decided; and though I have the greatest admiration, as every one has, for the ability of that judgment, which is a very striking one, and has made the law ever since in Scotland, it also went very considerably beyond what the previous practice had been, as in no instance before that time had a question upon the relevancy of the statements in an action been entertained after the verdict of a jury. Then, also, I may say, there have been a variety of cases decided recently upon questions of ground annual contracts, how far conditions in them ran with the land, and how far they were binding upon the original contractor. Now it seems to me, and I think it is the feeling of the profession too, that those judgments are questionable: they reversed a unanimous judgment of the whole Court upon a question of purely feudal law.

533. Lord *Sundridge.*] When did that take place?

The reversal took place three years ago. Several other cases have been decided in that way. I think the feeling of the profession is, that those judgments are questionable; it does not signify very much, if the rule be fixed, which way it is fixed, perhaps; but that has been the general feeling.

534. Earl of *Derby.*] Was that last case heard before a full tribunal in the House of Lords?

I think it was. My object in mentioning that case was not to question the decision so much—though what I say is, that some lawyers in Scotland think it a doubtful question—as to show the anomalous position of having a unanimous judgment of the Court of Session upon a question of strict Scotch feudal law, or at all events that which had come to be strictly Scotch feudal law, reversed in the House of Lords, constituted as it was.

535. Lord *Brougham.*] Are you aware that in that case I declined taking a part in the decision, on the ground of having been absent during part of the argument, though during a part of the argument I had been present?

I do not recollect it in that case, but I have heard your Lordship say so. I may mention a most important case as regards the making up a title, and the effect of service, which was reversed, I think, by Lord Wynford—the case of Cochrane *v.* Ramsay. The question was, whether, after one general service, another general service was competent to the effect of proving relationship, or giving a title to sue; it was held in the Court below that it was, and it was held in the House of Lords that it was not. That also was a question of strict Scotch conveyancing; and I think the judgment was at the time, and has been since, regarded as doubtful. I do not think it necessary to go further into those instances; they are certain to occur.

536. Lord *Sundridge.*] Are such cases numerous?

I should

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I should say cases of that kind might be very much increased beyond the list I have given: some of the old judgments before Lord Hardwicke's time are certainly so; and now, in later times, though we have accepted the judgments as law, it has not been without considerable misgiving in many important cases.

537. Lord *Brougham.*] Used not Lord Hardwicke to correspond with Lord Kames upon these subjects?

I believe he did. It is not merely in reversing judgments that I think the Court of Appeal defective; I think it is defective as a Court of Appeal in many cases where the judgments have been affirmed. It is not to be disguised that, throughout the whole system of Appellate Jurisdiction, and especially in many of the more technical parts of Scotch law, the Appellate Court has come to the consideration of them with very great difficulty and timidity; Lord Hardwicke less than any other. Lord Eldon confessed he came to them with fear and trembling, for fear he should do wrong, or allow his prepossessions in favour of English law to bias him. The number of affirmances especially in old times proved clearly that, whenever the House of Lords were not satisfied the Court below was wrong, they were afraid to grapple with the judgments in a system of law different from their own.

538. That so far tends to mitigate the objection to an appeal to men not learned in Scotch law?

It so far mitigates it that the judgment below stands good; but we should wish for a Court of Appeal, and should be very sorry to be without it; but a Court of Appeal is scarcely constituted rightly when the presiding Judge comes to a case with doubt and trembling. To have a Court of Appeal properly constituted, it ought to be familiar with all questions which can be brought before it, and more familiar than the Court from which the appeal is brought. I think I have said nearly all I have thought it necessary to say on the general constitution of the Court, and the way in which it has been worked. There has been little complaint from the public of the way in which it has worked, mainly arising from the fact to which I have alluded, of the admirable patience and industry and pains bestowed on the cases, and the contrast which that bore at one time to the practice in the Court of Session, for the practice in the Court of Session was anything but satisfactory for the greater part of the period of which I have been speaking.

539. Earl of *Derby.*] You are aware that a large proportion of the appeals before the House of Lords are Scotch appeals?

I am. I have frequently heard that remark made in the House of Lords, and have been often tempted to say that one notorious reason for that is, that it is to a certain extent, whether rightly or wrongly, viewed as a lottery, especially when the English law differs from the Scotch, and differs in the direction of the appellant's case. He consults an English lawyer, and if he finds it is so, he brings his appeal. I humbly think that is not a system of things which is consistent with the due administration of an Appellate Court: and I know in many instances that such is the consideration on which parties appeal; I believe, in that view, I coincide with a great many of our body.

540. Lord *Sundridge.*] Do you think it would tend to make it less of a lottery if there were a law Lord in the House of Lords conversant with the practice of the Courts in Scotland?

I should be sorry to see appeals in the hands of a Scotch law Lord exclusively: but I think if there were a Scotchman of eminence in the Court of Appeal, it would tend very much indeed, not only to diminish the number of appeals, but to shorten the discussion of them. I have heard stated at the Bar of the House of Lords, as the law of Scotland, things which would never have been uttered by the youngest Counsel in the Parliament House; and these matters are made the subject of discussion and investigation, when, in truth, if there were a man there who had been at all conversant with the practice of our Courts, they would never have been made questions at all. Upon the subject of expense, it appears to me that the great expense in the House of Lords arises from the length of the appeals: it has been very satisfactory to Scotland, so far as showing that they have been carefully and industriously heard. At the same time they do extend to an unreasonable length, and very often they are greatly

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lengthened by the discussion of topics which really do not arise in the question appealed.

541. Lord *Brougham.*] When you say you have heard things stated which would astonish Scotch lawyers, do you mean stated from the Bar?

Yes.

542. *Chairman.*] You mean you have heard arguments adduced which a sense of decorum would have restrained a counsel from placing before a Scotch tribunal?

That is what I meant to say: I am very far from saying the same things have fallen from the tribunal; I hope I am not misunderstood in the slightest degree to give that direction to my observations. On the contrary, it has been surprising to us how well and ably the lawyers of another system have administered the jurisdiction: at the same time, in an Appellate Court, that should not be a matter of surprise, but should be a matter of course; the fact that it is a matter of surprise shows that there is some element wanting in its constitution.

543. You spoke of cases in which there have been startling decisions in former times; may not it be the case that those questions have now been all or nearly all settled, so that they do not now arise?

That is partly the case, undoubtedly; at the same time I find that there have been cases reversed in the House of Lords, the reversal of which never appears to have been accepted or even known in Scotland.

544. In modern times, within the last three or four years, have there been any such questions arising in the House of Lords, except in the case of Miller *v.* Small?

The case of Kirkpatrick and Irvine caused a great deal of difference of opinion. Then there was the case of Marianski, in which Lord Truro decided that a verdict could be amended from a Judge's notes—but in a judgment which plainly indicated his opinion that the course of procedure in a Jury trial was the same as it is in England. He talked of an emendation of an error in the postea, and used a variety of expressions applicable to forms which we have not at all. No doubt, in all these cases of Jury trial, the House of Lords is a much better Appellate Tribunal than in any other, because we have borrowed that law entirely from England. On the other hand, however, I should be very sorry indeed to lose the benefit of the views of matured English lawyers on Scotch questions; and that leads me to say, I hope, in conclusion, that the remedy for the evils I have been speaking of is not to confide the appeals entirely to Scotch hands, but to constitute a Court of Appeal, that, by daily and constant practice in the different systems of law which prevail in Her Majesty's dominions, shall become so welded and moulded together, that each member of it shall communicate to the others the general principles of his system; while, at the same time, each is there to prevent any material error in regard to details of practice, or to the more special questions which may arise.

545. Earl of *Derby.*] Even assuming the Court to be unaltered, I understand you would object to the abrogation of the Appellate Jurisdiction of the House of Lords with regard to Scotch cases?

I should think it a misfortune. I think it is a very salutary check upon the Courts of Scotland. I should be very sorry to see the abrogation of any right of appeal.

546. What would be the precise remedy which you would suggest for the imperfections you have mentioned?

I suggest that there should be a Court of Appeal constituted within the House of Lords, and that one of the members of that Court of Appeal should be a Scotch lawyer of eminence; and it seems to me, if he sat, not only in Scotch appeals, but in English appeals, and in appeals from the colonies, he might be of the greatest service.

547. When you say a Scotch lawyer of eminence, do you mean one who had filled a judicial station in Scotland?

It might be right to select persons from that position, but not necessarily so. If the late Lord Rutherford had been alive, though at the Bar, he was out of all

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all sight the best man that could have filled that position. Sometimes the Bar is stronger than the Bench, and sometimes the Bench is stronger than the Bar. I do not think there should be a limitation to the choice, because I can conceive cases to occur where you could find no man on the Bench who was as well qualified as some men off it.

548. Do you think that, on the part of the Bench and the public in Scotland, there would not be a jealousy of the supposed paramount authority which might be vested in the single individual who so sat upon the highest tribunal of the kingdom?

I think it possible that there might be a jealousy of that kind on the Bench; but I am not sure that jealousy on the part of the person whose judgments are to be reviewed is altogether an element which ought to weigh very much; but I may be allowed to say, that I understand the Solicitor-general rather represented that the proposal which had been made to introduce a Scotch element into the House of Lords had not been acceptable in Scotland. It is right that the Committee should know that, in 1851, a committee was appointed of the Faculty of Advocates to consider the subject. I hold the report in my hand, and perhaps the Committee will allow me to give it in. It is a unanimous report. They say that the system is not satisfactory; that there are two ways of meeting it, one by summoning the Judges, which they do not think practicable, and the other by the appointment of a lawyer of eminence to the House of Lords.

549. Lord *Lyndhurst.*] One lawyer?

Yes. That report is unanimously passed, the committee consisting of four gentlemen who are now upon the Bench; and the motion to approve of it in the meeting of the Faculty is also moved and seconded by two other gentlemen who are upon the Bench; so that we have the opinion of six of the present Judges in favour of the report as it stands.

550. *Lord Privy Seal.*] Do you think such a Judge should be taken entirely from the Bench, and employed in the House of Lords?

If I were to propose a plan, I should suggest that the revival of the ancient office of Lord Keeper or Lord Chancellor of Scotland would be the best mode of doing it, and that a Peerage should be attached to the office. However, it is not for me to enter upon the question how it should be done; but I am satisfied it could not be well done, unless the officer appointed gave his whole time to it.

551. Lord *St. Leonards.*] How would he be employed during the rest of the year?

If the Court of Appeal were to judge, not only in cases before the House of Lords, but, as I think they might very well, in cases before the Judicial Committee of the Privy Council also, that is to say, if the tribunal of the House of Lords absorbed the jurisdiction of the Privy Council, I think you would have occupation for such a Court through the whole year.

552. Lord *Brougham.*] Are you aware that before the time of Lord Rutherford, a man quite equal to him was Mr. Cranstoun, afterwards Lord Corehouse?

Yes.

553. Was not he one of the ablest men and the greatest lawyers who ever appeared at the Scotch Bar?

He was probably the most accomplished lawyer of our time.

554. Are you aware that Lord Eldon had it in contemplation to make some arrangements of the kind which you have adumbrated, of bringing a Scotch lawyer to be a Member of the House of Lords, in the person of Lord Corehouse?

I remember hearing at the time it was in contemplation, and I believe it would have given great satisfaction to the Bar if it had been carried out.

555. Earl *Stanhope.*] What steps were taken upon that report to which you have alluded?

The Dean of Faculty and a deputation from the Faculty waited upon the Government of that day, and pressed upon them as strongly as they could the importance of doing something in the terms of that report.

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556. Did the matter rest there?
I think it rested there. The Faculty met the other day and adhered to their former resolution. I have a note in my possession from the present Dean of Faculty to say that they have again met, and have adhered to their previous resolution.

557. Lord *Lyndhurst.*] If you were to revive the office of Lord Chancellor or Lord Keeper of Scotland, you would revive many duties which no longer exist?
It would not be necessary so to revive them. I think it would be better to attach a name to the office; and I think nothing can be more reasonable than the demand of the Scotch Bar, that they should have something of that kind to look to as well as the sister professions in England and Ireland. There is no reason why a Scotch lawyer should be excluded from that position; and as I have already said, I think the course of Scotch study is not against their aspiring to it.

558. Lord *Brougham.*] Are you aware that in 1806 it was part of the plan of the Whig Government of that day to revive the office of Chancellor of Scotland?
No; I was not aware of that.

559. *Lord President.*] What you state with respect to this report, and the subsequent decision to which the Faculty has come, shows the opinion of the legal profession in Scotland. Are you able to say of your own knowledge, how the presence of a Scotch Judge in the ultimate Court of Appeal would be viewed by the great commercial communities of Scotland?
My impression is, that if the Scotch Judge were solely to decide, there would be a feeling in Scotland that that would not be satisfactory; but if the Scotch Judge were to form a part of the Court of Appeal, I think it would be hailed by all classes as a very important national advantage.

560. Lord *Lyndhurst.*] You do not consider that the decisions of the Court would be supposed to be decisions of the Scotch Judge alone?
No; that objection has been made; but I cannot help thinking that if the Scotch Judge sat upon English and Colonial cases, and formed part of the great appellate system, that would never come to pass: he would have a respect for the opinion of his brother Lords; and the Scotch character of the man would be merged in the catholic character of the tribunal.

561. Lord *Brougham.*] Are you aware that the reasons which influenced Lord Eldon to put aside and reject the proposition which has been just now alluded to, with respect to Lord Corehouse, operated also with your father and others, who considered the subject in 1832, connected with the Judicial Committee?
I know there were very great difficulties about it at that time. My impression is, that my father's opinion was in favour of some arrangement of the kind, if it could have been accomplished.

562. *Lord Privy Seal.*] Would not there be an inconvenience in the placing of a Scotch Judge upon this Appellate Committee, with the title of Chancellor of Scotland; that he would appear by that title to have a special jurisdiction over Scotch cases, and that he would not be regarded as merely one of the tribunal?
It does not occur to me that that of itself would necessarily be an objection, as the Lord Chancellor of England would necessarily be a Member of that Committee of the House of Lords.

563. The Lord Chancellor of England has other duties to perform in his office of Lord Chancellor; sitting in the Court of Appeal is not the only function he has to discharge; but in this case, as I understand you, the new Scotch Peer would be Chancellor of Scotland, having no other duties to perform, but being one of the body to consider Scotch cases?
That might be an objection to the particular title. My observation simply goes to this, that it should be an office with a denomination.

564. Earl of *Derby.*] I presume with a salary?
Yes.

565. Earl *Grey.*] There is at present an honorary office of Keeper of the Privy Seal of Scotland, is there not?

There is.

566. You said, with respect to Lord Rutherford, that he would have been selected as the fittest man for such an appointment; how long was he a Judge?

He was a Judge a very short time; from 1851 to 1854.

567. Lord *St. Leonards.*] If you take a competent person from the Scotch Bench, for example, and bring him here simply to assist this House in appeals, he would not have sufficient business for the year, or the means of obtaining sufficient experience. If, on the other hand, you give him such duties as he ought to have to perform in Scotland, he would be constantly sitting here in appeals from his own decisions; would not that be so?

Yes; I would give him no duties in Scotland, certainly. I would either have the functions of the Privy Council transferred to the House of Lords, or I would make the House of Lords' Judge sit also in the Privy Council judicial cases. I think it would destroy his usefulness to let him sit in Scotland too.

568. *Lord Privy Seal.*] Would not he have as much occupation as his brother Judges of Appeal?

Quite as much.

569. Therefore, there would be no defect in that respect in his case, which was not common to the other Judges?

Certainly not, and none which is not clearly common to the present system of the tribunal.

570. Earl *Grey.*] You recommend the appointment of a Lord Chancellor for Scotland?

Or the creation of an office, with some such denomination.

571. In making that recommendation, do you contemplate that the office should be held by the same tenure of office as the Lord Chancellor in England, that he should be liable to change with the political administration?

I think not; I think it should be an office for life.

572. Or during good behaviour, like the other Judges?

I think so. Scotland could scarcely furnish men varying with each party; I think it would make the experiment at least a much more hazardous one.

573. Earl *Stanhope.*] Sir Richard Bethell, who appeared before the Committee, stated that the opinion in Scotland was, as he says, almost unanimous against a Scotchman sitting in the Court of Appeal: he says, "I mentioned the subject in the House of Commons last August, and I received during the vacation numerous letters from Scotland, and numerous extracts from newspapers in Scotland, all of which appear to be one way, namely, opposed to the carrying out of any such measure?"

Sir Richard Bethell was in a mistake, however, in regard to the feeling so far, that he was not aware that the Faculty of Advocates had come to that decision, or taken the steps they did in 1851. He unfortunately made his statement at a time when the Courts of Scotland were up, and everybody was dispersed, and he did receive no answer to his letters at that time in favour of the application; but I think if the Dean of Faculty is examined before the Committee, he will tell your Lordships what the feeling is, and that it is very strong in some quarters. On the other hand, it is quite right to say that there is a certain amount of jealousy of the legal profession generally, which might operate to make such an appointment less palatable in some quarters than it might otherwise be; and I can quite conceive that even upon the Bench there might be some feeling of that kind by those who might rather wish to have their judgment reviewed by Judges of a different system of law than by persons whom, perhaps, they would not look up to with the same amount of reverence that the public would.

574. You think it would be approved of in the legal profession, but not so much so by the general public?

My impression is, that the proposal to have a Scotchman a member of such a tribunal would be generally satisfactory. I think when it was first proposed

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there was dissatisfaction in some quarters; but, if I can judge by the newspapers, the feeling has become strong in Scotland for an appointment of that kind.

575. Lord *Sundridge.*] Do you think that would tend to diminish the number of appeals from Scotland?

I think so

576. Is not it true that a great many appeals from Scotland are of a very frivolous character, both as regards the amount in dispute and the point of law which is concerned?

Yes; there are some of them where, in no possible event, can the appellant get an advantage; the appeal is taken only probably for delay.

577. Lord *Lyndhurst.*] Do you think there would be more or fewer appeals if the tribunal were constituted as you suggest?

I have no doubt there would be fewer.

578. Lord *St. Leonards.*] Do you think an immediate decision of the frivolous cases you have referred to would have a very considerable influence in diminishing the number in future?

Certainly. Generally those appeals are either taken for delay, or they are taken by some men who have an insanity of litigation, and who prefer the excitement of the case, even with the certainty of losing it.

579. *Chairman.*] You think there ought to be at least one member of the Court of Appeal who should be a Scotchman?

Yes.

580. Have you any other suggestion to make as to how the tribunal should be constituted?

It appears to me that there should be a representation also of the Civil Law from Doctors' Commons; that there should be a civilian a member also of the Court.

581. Lord *Lyndhurst.*] Do you say that upon the supposition of a transfer of the business from the Judicial Committee of the Privy Council?

Even without that, I think there would be great benefit in it. Though we study the Civil Law in Scotland, it is with a view to a practical system; in the other case the study is to some extent larger. I may be allowed perhaps to say I think one great advantage of such a tribunal would be this, that the Bar of all the three countries would probably be greatly raised by it. The standard of education and the standard of study would be greatly improved, for this reason, that it would then be as an ultimate object of ambition a position where a knowledge of every system of law would be of advantage, and therefore we should not only pursue in Scotland the study of the Civil Law, but seek to acquire a competent knowledge of the law of England; and, on the other hand, the Bar of England, I think, if I may presume to say so, would enlarge their study of the Common Law by the study of international questions, and the study of the Civil Law.

582. Lord *Brougham.*] Does not it appear to you that, for these reasons, there ought to be, besides the Scotch Lord, a Doctors' Commons Lord, and an Irish Lord?

I do not know whether the Irish system differs so much from the English as to make that important.

583. My question has reference, not to the system of law, but to the consideration you have thrown out relative to the Bar?

I think it would be a very proper thing for Ireland.

584. Then there would be one Common Law Judge and one Equity Judge?

I should say, in reference to the Irish Judges, no doubt it would not have a favourable effect upon the Bar of Ireland, if the Irish lawyers were not eligible to such a position; at the same time, as the system of the law in Ireland is the same substantially as it is in England, the case is not nearly so strong.

585. Would not it have the effect of producing discontent among the Bar of Ireland, when they saw the Scotch Bar treated differently from themselves?

It might; but I should not myself think that would be a serious objection, if otherwise the proposal were thought to be a proper one; on the other hand,

hand, there would be no difficulty in allowing an Irish common lawyer to assume that place if he were fit for it.

586. *Chairman.*] In speaking of the English law, you probably include the Irish law?

Yes.

587. Lord *Sundridge.*] Generally, there is nothing to exclude an eminent Irish lawyer from becoming a Peer, and so a member of the Appellate Tribunal, is there?

No; it has happened frequently.

588. There is a great office connected with the Irish law which does not exist in Scotland; there is a Lord Chancellor of Ireland?

There is an Irish Lord Chancellor.

589. Earl *Grey.*] Some of the witnesses who have been examined have expressed a very strong opinion against the practice in Courts of last resort, when members of the Court differ, of each stating his opinion separately; they have said they think the authority of the judgments of the Court would be greatly increased if any difference of opinion among its members were not allowed to come before the public; do you think with them?

I do, as regards the present system: no doubt there would be some loss of very able elucidations of general principles which the speeches of the Lords frequently give us; on the other hand, that difference of opinion is very distressing; nothing can be more distressing, when a great question has been brought to the House of Lords to settle an important point, than to have a difference of opinion between the learned lawyers who are there; and I think it would be more satisfactory, on the whole, if judgments were delivered by one Judge.

590. You think it would be better to follow what we understand to be the practice of the Judicial Committee of the Privy Council, and that a judgment stating the reasons for the decision should be drawn up and adopted by the majority of the members of the tribunal?

My impression is, that that would be the preferable system: I should not wish to say it dogmatically; but I think in a Court of the last resort there would be advantages in that system.

591. Marquess of *Lansdowne.*] Do you think, generally, the clients would derive greater satisfaction from the judgment being so given as the judgment of the whole Court, than from being made aware of differences which exist between particular members of the Court?

Where the Court is unanimous, there is perhaps an advantage in delivering the judgment orally; but where there is a difference of opinion, I think it desirable that there should be no discussion in the Court of the last resort.

592. Lord *St. Leonards.*] Do you think there could be any Court of Justice established in which you could lay down a rule as to the manner in which the judgment should be pronounced by the different Judges?

It is difficult for me to answer that question; hitherto the ordinary practice has been that the judgment is sometimes delivered by the head of the Court, and sometimes each Judge delivers his opinion.

593. That would depend, of course, upon the feeling of the Court itself?

Yes; I do not mean to express an opinion that there should be a rule laid down; my impression is, that it would be better, where there is a difference of opinion, that the judgment should be given as has been suggested.

594. Though there is a difference of opinion, you would not have it communicated to the profession and the public; but you would have the judgment delivered as if the Court were unanimous?

The public would come to understand that it did not necessarily imply unanimity; because they would be aware that when there was a difference of opinion it was not disclosed; it is a question of balance of benefits and disadvantages.

595. As regards the science of the law; do you think it would have the effect of improving the law as a science?

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We should suffer loss in that respect, by losing able opinions which are now delivered; but my impression is, that the disadvantage would be more than counterbalanced by the advantage.

596. Supposing, in a Court of three, one Judge differs from the other two, he being competent to form an opinion, and he states his view, and the other two Judges know that he will state it; is it not likely that the other two, whose opinions will decide the case, may investigate the case with more labour than they would otherwise have applied to it?

It may have that effect; on the other hand, it must be remembered that the judgment of the Court of last resort makes the law, and it ought to make it conclusively; and to have the law made with a strong opinion against the judgment leads to dissatisfaction without producing any result.

597. Earl of *Derby.*] I presume it is the more unsatisfactory the more eminent the dissentient is?

Yes.

598. *Lord President.*] Have you ever heard a complaint made of the Judicial Committee of the Privy Council, in consequence of the public being ignorant of the opinions of individual Judges?

From all I hear, that tribunal gives great satisfaction.

599. Lord *Brougham.*] Are you aware that the practice of the Judicial Committee of the Privy Council rests entirely upon arrangement; there is no provision in the Act of Parliament creating the Judicial Committee to that effect, nor in any Act which has been passed subsequently?

So I understand. I have only one observation which I should like to make in conclusion, as to the mode of hearing appeals. I think the great defect of the system is, that those learned Lords who sit, except the Lord Chancellor, do not necessarily do so as part of a public duty; I do not mean in the least to say, that they do not apply themselves to the cases as they would if it were so; but I find in the same pamphlet of Lord St. Leonards the sentiments which I wish to express stated in these words, and they really embrace everything I have to say upon the constitution of the Court generally: "No Court of Appeal will act to the satisfaction of reasonable men, unless it is composed, as long as circumstances will permit, of the same persons, whose express duty it is to hear the appeals, and who are responsible for the decisions, nor unless they are presided over by an accomplished lawyer, to whom the profession and the suitors may look up with confidence." I should also say that during the whole time I have practised in the House of Lords, I think we should always rather have taken the decision of the Lord Chancellor for the time, sitting by himself, than the decision of the House of Lords, in the way in which it is composed, for this reason, that there is a greater feeling of responsibility on the part of the Lord Chancellor sitting alone; and that when that responsibility is divided among those who are not bound to discharge the duty, however able and eminent the coadjutors may be, there is an impression at least, and possibly it may be to a certain extent a reality, that business is not transacted exactly in the spirit of an ordinary Court of Law.

600. Lord *Brougham.*] Do you not consider that a Court composed of six or seven would be liable to the objection of a diminished, by its being a divided responsibility?

I do not think so; it is not the division of the responsibility I refer to, but that it is not the duty of the other Judges to attend. This Court we have been speaking of would take the position of an ordinary Court of Law.

601. Earl of *Derby.*] Would not that objection be done away with if the Court were constituted by the authority of the House, in the same manner as the House delegates to a Committee the consideration of a particular question?

What I wish to see is, that the same Judges shall sit in all cases, and that it shall be their duty to do so.

602. You think that all the Judges qualified to sit, should sit in all cases?

Yes.

603. Lord *Brougham.*] Supposing the present practice to continue in the Court of Appeal, of calling occasionally for the assistance of the learned Judges in England, should you consider that it would be an improvement, as regards the

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the Scotch business before the House, that a similar facility should be given to the House of calling for the assistance of some of the Scotch Judges, not to vote upon or decide the case, but to give their answers to questions put by those who have to decide it?

I think, independently altogether of the proposal I have made about the constitution of the tribunal, there should be a power to consult the Scotch Judges, just as there is to consult the English Judges. Of course, you could not go to any great extent in the way of calling them up, because that would interfere with their duties; but there may be many cases in which the opinion of the Judges of Scotland would be very desirable.

604. Supposing Scotch cases were, by an arrangement of the House, taken between the 20th of March and the 20th of May, which is your spring vacation; in the course of those two months there might be two or three of those cases heard, one after the other, occupying, perhaps, a fortnight or three weeks: would there be any great inconvenience in a certain portion of the Scotch Judges repairing to London for the purpose of assisting their Lordships in disposing of those cases?

I think there would be an objection to their coming for the purpose of hearing cases ordinarily. What I contemplated was, the reference of special points to them which might have arisen. The circuits take place during that period, and perhaps some of the ablest Judges might be unable to attend. On the other hand, only the Judges from whom the appeal was brought might be able to attend.

605. Lord *St. Leonards.*] Would it often happen that, in calling upon the Judges for their opinion, those Judges would attend who had themselves been Judges in the cause?

The Judges in any case can only be five, in the ordinary course of business; so that the remaining number of the 13 would still be available for the purpose.

606. *Lord President.*] Do you find it to be a common complaint in Scotland, that this ultimate Court of Appeal does not sit during the recess?

It is a complaint among the counsel; and certainly the delay is a considerable cause of complaint among the suitors too. It leads to this, that a great many appeals are taken for delay; whereas if the Court were to sit longer, that source of appeal would be cut off entirely.

607. *Chairman.*] Do you think there would be any feeling in Scotland against the Court of Appeal being a distinct Court, and dissevered altogether from the House of Lords?

My impression is, that there is something in the dignity of the Court of Appeal as now constituted, which the people would be disinclined to part with.

608. Are you aware that in the Act of Union there is an express stipulation that no judgment of the Court of Session shall ever be subject to revision by any Court at Westminster?

Yes.

609. Lord *St. Leonards.*] Supposing such a tribunal within the House as you have proposed to establish to have the effect of excluding the law Lords; do you think that would be acceptable or not?

I should think it would be very undesirable to lose the assistance of the law Lords who now take part in appeals, provided they constituted part of the Court.

610. Marquess of *Lansdowne.*] Can you tell the Committee whether the expense attendant upon appeals is materially increased by the constitution of the Court as it now stands, and the delays incidental to it, and particularly from the circumstance that the hearing of appeals is confined to the Session of Parliament?

I think the causes of the expense are, delay in the first place in the hearing; and, in the second place, in the Court not sitting every day, and then that it does not sit except during the Session of Parliament. Sometimes it has the effect that cases are not decided for years. There is a case at this moment not yet decided, which was heard in 1852, the Linlithgow case.

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611. Does not it frequently happen that appeals are given up in consequence of the certainty of delay occurring?

I think so. In cases which ought to be appealed, it frequently happens that delay prevents an appeal, because, before the case is decided, the subject of the action may have come to an end.

612. Lord *Brougham.*] Are you aware that the reason of the delay in the Linlithgow case is the unfortunate accident of Lord Truro having been dangerously ill for a long period, and his subsequent death?

Yes.

The Witness withdraws.

J. Anderson, Esq., Q. C.

JAMES ANDERSON, Esquire, Q. C., is called in, and examined as follows:

613. *Chairman.*] YOU are a Queen's Counsel, practising at the Chancery Bar?

Yes.

614. You are also a Scotch Advocate?

I came to the Scottish Bar in 1828; I practised there till 1839, when I was called to the English Bar; and, from the year 1839, I have practised at the Chancery Bar, and in the House of Lords.

615. I believe you have had considerable practice, particularly in Scotch cases, at the Bar of the House of Lords?

I have.

616. Are you familiar with the period of Lord Cottenham's first Chancellorship?

Lord Cottenham was Lord Chancellor when I was called to the English Bar, and when I commenced to practise in the House of Lords; from that time I have continued in general practice, without any interruption, till the present time.

617. Will you state what has been your observation as to the generally satisfactory or unsatisfactory nature of that tribunal, more particularly with regard to Scotch appeal?

I was very much struck with the excellency of the manner in which causes were disposed of in the House of Lords. It was very superior to that in which the proceedings in the Court of Session were conducted before I left it. I think the Scotch appeals were in general most satisfactorily heard and disposed of during the first time Lord Cottenham was Chancellor. After his Lordship ceased to be Chancellor, there was also a very strong Court. The law Lords were numerous, and, I thought, very assiduous and unremitting in their attention. I thought, however, that there was some objection to the course pursued during Lord Lyndhurst's Chancellorship. Lord Lyndhurst divided the time given to appeals in the House of Lords. His Lordship presided two days a week; the other two cause-days were in rotation given to other Peers. The consequence was, that the Scotch appeals came generally to be heard on the days on which Lord Lyndhurst did not preside—not by arrangement, because the order of the cause list was followed; but it was thought right that when there was any appeal from the Court of Chancery, or when the Judges came down on writs of error, the Lord Chancellor should be present. The effect of that was, that English appeals and writs of error were heard before Lord Lyndhurst, and Scotch appeals before the three other law Lords. I believe that was not altogether satisfactory. It was thought that it was not right that the Scotch appeals should be heard by law Lords who had no duty or office, in the absence of the Lord Chancellor.

618. Lord *Lyndhurst.*] Some of those noble and learned Lords had been Chancellors, had they not?

Yes; but still they were there not from any duty; they had no office; there was

was no responsibility, except the responsibility which they took upon themselves. That, I conceive, gave rise to dissatisfaction.

619. Earl of *Derby.*] Will you have the goodness to take this return into your hand, and look down the column, and see whether there are not a very large number of appeals from Scotland, upon the hearing of which Lord Lyndhurst sat?

There are five appeals from Scotland, and one writ of error, in which Lord Lyndhurst presided.

620. When the Lord Chancellor was not sitting during that period in the House of Lords, he was sitting, of course, in the Court of Chancery?

He was. At that time there was not the same assistance in the Court of Chancery which the Lord Chancellor now has. Having regard to the state of business in the Court of Chancery, during the time Lord Lyndhurst held the Great Seal, it was indispensably necessary for the Lord Chancellor to devote at least four days a week to that Court. The business had increased so much as to lead to the appointment, in 1841, of two additional Vice-Chancellors. This measure, although it relieved the pressure at the Rolls, and before the Vice-Chancellor, had the effect of making it greater in the Lord Chancellor's Court. For after the additional Vice-Chancellors were appointed, the Lord Chancellor had to review the decisions of four Courts, instead of two as formerly.

621. *Chairman.*] Lord Cottenham relaxed in his attendance very much during the last year, did he not; his health failed?

Yes.

622. He was succeeded by Lord Truro, and then Lord St. Leonards was Lord Chancellor, who was followed by myself: from the time when Lord Cottenham's second Chancellorship ceased, has there been any alteration in point of the satisfactory or unsatisfactory nature of the tribunal?

When Lord Truro became Chancellor, in 1850, there was a great arrear of cases, which, during Lord Cottenham's illness, had accumulated both in this House and in the Court of Chancery. Lord Truro in consequence devoted himself to the Court of Chancery exclusively for the rest of that Session, leaving Lord Brougham to hear appeals in this House. This certainly led to some dissatisfaction, for the reason I have mentioned. Although it is right to say that I think the causes themselves were satisfactorily disposed of, and I may instance the judgment in Irvine *v.* Kirkpatrick, 7 Bell's Appeal Cases, 186, which I consider to be one of the most luminous and best reasoned judgments in the books. After 1850, Lord Truro, Lord St. Leonards and your Lordship, have, I think, nearly invariably taken part in the hearing of Scotch appeals.

623. Lord *Brougham.*] Look at this return for the year 1842, and see whether there were not 29 Scotch appeals heard during that Session?

Yes.

624. In how many of these did Lord Lyndhurst sit?

Upon 17. The consequence referred to in my answer to a former question, viz., of Scotch appeals being heard generally when the Lord Chancellor was absent, had not arisen in 1842. During the period from the beginning of Session 1843, till July 1846, when Lord Lyndhurst resigned the Great Seal, there were, according to the authorised reports (Bell's Appeal Cases), 52 Scotch appeals decided, of which 17 only were heard before the Lord Chancellor. One of these 17 (Thomson *v.* Advocate-General, 4 Bell,1), was a writ of error from the Scotch Court of Exchequer, at the hearing of which the English Judges attended.

625. What have been the causes, if any, that have led to dissatisfaction within the last five or six years?

I think the one defect is that, except the Lord Chancellor, the noble and learned Lords who attend have no duty cast upon them to be present, and when present are under no judicial responsibility. I think if that defect were remedied, the Appellate Jurisdiction would give entire satisfaction to the country.

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626. Lord *Sundridge.*] Without the presence of any Scotch law Lord?

Yes, although it is a difficult question. I think there are many considerations to be attended to with respect to it. There is undoubtedly an anomaly, in theory, in the constitution of the House as an Appellate Court for Scotch appeals; but in practice, notwithstanding that there has been no Scotch lawyer to assist the deliberations of the House, the system has generally worked very well, and has given satisfaction. Before the Union the appeals to Parliament were very few indeed. The Court of Session was supposed to have the authority of Parliament. There were some attempts to appeal to the Scotch Parliament from their decision, but those attempts were put down; and even after the convention of estates declared that it was the right of the subject to have a Protest for Remede of Law to the King in Parliament, we find only an occasional appeal presented. But after the Union, the appeals became very numerous. Lord Fountainhall, who was a very observant Judge, mentions that in one Session, the winter session of 1712, nearly 20 appeals had been presented in Parliament, "to the great impoverishing and detriment of Scotland." The Judges discouraged appeals; but the profession and the public did not sympathise with them; and I think from the Union downwards the Appellate Jurisdiction has given very general satisfaction. Lord Hardwicke was a great Judge; he had evidently a very thorough knowledge of Scotch law; he was on the most intimate terms with Lord Kaimes, a distinguished Judge, who sat on the Bench about the middle of the last century; he had a correspondence with him; and there is a letter from Lord Hardwicke to Lord Kaimes in which he gives the most accurate description of the difference between English and Scotch entails which can be met with anywhere. The question was upon the forfeiture of Gordon of Park. The Statute of Anne declared that the law of treason in England should be the law in Scotland, by which a tenant in tail would forfeit only his own estate tail, and the remainder-men would only forfeit their estates, if they respectively were guilty of treason. Remainders not being known in Scotland, the Scotch Judges were perplexed how to apply the statute to the estate of an heir of entail in possession. They thought that if the estate-tail was forfeited, the whole was gone, including all the substitutions, as there was one fee and no remainder; and this would be a more extensive forfeiture than in the case of an English rebel who was tenant in tail. So they did violence to the words of the statute, and limited the forfeiture to the rebel's estate for his own life only. Lord Hardwicke took a sounder view of the law, and he advised the House to reverse the judgment, and forfeit only such interest as the party would have had if the estates had been English; and he expounds his views in the letter referred to in a very able manner, stating the difference between the law of England and the law of Scotland.

627. Lord *Brougham.*] Did not Lord Kaimes rather charge Lord Hardwicke with having introduced a remainder for the first time into the Scotch law?

Yes; but Lord Hardwicke said, I do no such thing: the universal character of a fee would still remain, excepting in the interpretation of the Act of Anne. It was only meant to forfeit the interest of the party and his issue in the lands, whether you call it a fee or a partial estate.

628. Lord *Lyndhurst.*] Lord Hardwicke upon more than one occasion corresponded with the Scotch Judges, did not he?

He did.

629. Lord *Sundridge.*] Do you mean that Lord Hardwicke was in the habit of consulting Lord Kaimes upon judgments which he gave?

I cannot say that he was; he was in the habit of corresponding with him on legal topics.

630. Lord *Lyndhurst.*] Was not he in the habit of discussing questions of Scotch law with him?

He was occasionally.

631. *Lord Privy Seal.*] Does not that seem to imply some weakness in the Appellate Court, that it is obliged to pick up knowledge by means of private correspondence to guide it in its conclusions?

That

That would be an objection: but I think the correspondence which Lord Hardwicke had with Lord Kaimes was not with a view of enabling him to make up his mind upon a judgment. The correspondence which I refer to took place after the judgment was delivered, and I only refer to it to show that Lord Hardwicke's mind was filled with a knowledge of the law of Scotland.

632. *Chairman.*] That correspondence does not convey the impression of any want of knowledge on the part of Lord Hardwicke as to the law of Scotland?

No. On the contrary, it contains a valuable exposition of that law.

633. Lord *Sundridge.*] You appear to attach no importance to the presence of a Scotch lawyer in the House when sitting upon appeals?

Very little, although it is impossible to say that for some purposes it would not be important: there is a balance of difficulties. In theory, unless there happens to be a noble Lord who has a knowledge of Scotch law, the tribunal is open to the observation, that they are deciding upon a subject-matter in which they are not educated. The objection which the Lord Advocate referred to is, no doubt, a forcible one—that the tribunal has no members necessarily familiar with that branch of the law which comes so frequently before it. But there are objections to the introduction of a Scotch Judge into the Appellate Tribunal; English lawyers would be very apt to transfer the responsibility of the decision of Scotch Appeals to the Scotch Judge; and the Scotch Judge would have great diffidence in overruling or differing from his English brethren on points of English law. It is difficult to say whether the one set of objections should prevail, or the other. My own opinion is, that though the Lord Advocate's view is supported by theory; practically, the introduction of a Scotch Judge is not desirable. Taking a comprehensive view of the exercise of the Appellate Jurisdiction, I think experience has shown that it has worked very well without a Scotch Judge or a Scotch law Lord.

634. *Lord Privy Seal.*] Do you think that questions are ever raised and discussed before the House of Lords which would not be raised and discussed if one of the members of the body had been himself a Scotch Judge?

That might happen.

635. Thereby involving a loss of time and increased expense?

The law on those occasions is rather proved to the tribunal: more time is consumed, and you go into a more elementary discussion than you would, if the members of the Court were familiar with that particular branch of the law.

636. Earl of *Derby.*] That has to be proved which would otherwise have been assumed?

Yes.

637. *Chairman.*] You say that that frequently occurs; how many hours in the Session do you think are thus occupied?

If the appeal is upon a branch of the feudal law, I should say one-fourth part of the counsel's speech would be occupied in proving what would otherwise have been taken for granted.

638. How many cases connected with the feudal law of Scotland come before the House?

They are getting fewer every Session. Entail questions have been very much settled.

639. Have there been half a dozen cases for the last three years?

I cannot say that there have.

640. Were you counsel in Miller *v.* Small?

Yes, for the gaining side. I did not understand that any feudal principle was involved in that case. The question was as to the construction of a covenant in a deed; no doubt it was a deed containing a grant to a feudal subject; but there was a personal covenant, by which the grantee bound himself, his heirs, executors and successors, to pay a certain annual sum of money. He aliened the subject to an assignee, and the question was whether that assignment discharged him or his representatives from the covenant.

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641. Do you think it would increase or decrease the confidence of the Scotch people in the jurisdiction of the House of Lords if a Scotch lawyer were introduced into it?

I do not think the confidence of the Scotch people generally in the House of Lords would be increased. A Scotch Judge would not be required if there were a permanent tribunal appointed of noble and learned Lords, whose obligation it was to be present at the hearing of every appeal. I do not think it should be necessary that any one or two of those noble and learned Lords should be Scotch lawyers; but I would not exclude a Scotch lawyer from being eligible to be a member of the Court, if he were, in all other respects, the fittest person to be appointed.

642. Earl *Stanhope.*] Did I rightly understand you to say that the information sought by Lord Hardwicke from Lord Kaimes was not sought previously to judgment being delivered?

The letter I refer to was subsequent to the judgment: I refer to it to show that Lord Hardwicke had a thorough knowledge of the subject he was writing on.

643. Are you justified in concluding, from that single letter, that there was a continued correspondence?

I know from other sources besides that letter that there was a correspondence between Lord Kaimes and Lord Hardwicke; indeed it is supposed that Lord Hardwicke revised some of Lord Kaimes's treatises.

644. *Lord Chancellor.*] The tone of the letter implies correspondence, does not it?

Yes. The treatises of Lord Kaimes to which I refer, as being supposed to have been revised by Lord Hardwicke, are his "Law Tracts" and his "Principles of Equity." Lord Bankton, when he published his "Institutes," introduced at the end of each chapter, observations on the law of England on the same subject. It has been supposed that these "observations" likewise were revised by Lord Hardwicke. In the Preface to the "Institutes," written in 1751, p. 10, Lord Bankton says, in reference to his observations on English law, "To prevent mistakes, I, having no other knowledge of that law than by theory, which cannot be depended on, subjected my observations thereon to the review of gentlemen learned in the laws of England, who generously undertook that labour for the public good. They on this occasion made such alterations as they thought proper, and therefore it is thought the public may safely depend on the justness of these observations." I cannot answer for the accuracy of the supposition that Lord Hardwicke was one of the gentlemen here referred to; but I believe that he corresponded with Lord Bankton. It is certain, however, that Lord Hardwicke corresponded with the Lord President Forbes (of Culloden), one of the most eminent Judges that ever sat on the Scotch Bench. Lord President Forbes had been Lord Advocate for many years before he was elevated to the Bench, in 1737, and had an extensive practice in Scotch appeals. Lord Hardwicke, too, who was at the Bar during that time, was engaged in nearly every Scotch appeal case, and the intimacy which arose between him and the Lord President Forbes was continued in after-life. Several letters from Lord Hardwicke to the Lord President are preserved in the "Culloden Papers." One, of date the 5th April 1740 (Culloden Papers, p. 158), will show what pains Lord Hardwicke took in acquiring a knowledge of Scotch law, and in disposing of Scotch appeal cases.

645. *Lord Privy Seal.*] Do you agree in the evidence of the Lord Advocate, that the number of appeals from Scotland being so excessive, as compared with those which come from England, is due to the feeling that it is uncertain what the result will be; that the appeal is, in fact, a lottery?

Not altogether. The number has been very great, no doubt, as compared with appeals from England and from Ireland, with the exception of the present Session.

646. To what do you attribute that excess of Scotch appeals?

To a number of causes; perhaps the national character has something to do with it: I do not mean to say that the Scotch are more litigious than the English;

English; but when they go to law they are more persevering in their litigation. But I think that the principal cause of the large number of appeals from Scotland is, that the people of Scotland have had confidence in the administration of justice by the House of Lords, while this has not always been the case in regard to the Court of Session. Lord Eldon (Anecdote Book, cited in Lord Campbell's Lives of the Chancellors, vol. 7, p. 666), with much justice, says, "I have the comfort of having reason to believe, that my administration in this part of my duty was satisfactory; and whilst the number of appeals greatly increased, and by some were alluded to as proofs of delay in that administration; by others, and those who knew best what was the fact, that increase of appeals, I was assured, was occasioned by the confidence which the lieges of Scotland had in the judgment to which they appealed." This confidence I conceive to have arisen, partly from the greater deliberation and more anxious investigation each case receives, and partly from the frequent reversals of judgments of the Court of Session, where violence had been done to great principles of general law and equity. I may mention a few instances in different branches of law:—

(1.) *Alimony.*—The Court of Session took upon itself to determine the reasonableness of the allowance which a father voluntarily made to his son of full age. In Moncreiff *v.* Moncreiff they increased an allowance of 111 *l.* to 200 *l.* This judgment was reversed by the House of Lords, during the time Lord Talbot held the Great Seal. (1 Paton, 162.) Notwithstanding this precedent, the Court of Session again interfered at the instance of a son who was at the Bar, and ordered his mother to pay him an annual allowance of 200 *l.* This judgment was reversed (6 Dow, 257), Lord Chancellor Eldon expressing his surprise at the decision. Again, in Maule *v.* Maule (1 Wilson & Shaw, 266), the Court of Session took upon itself to increase an allowance which a father made to his son, of age and in the army, from 100 *l.* a year to 800 *l.* a year. It was observed by the Lord Chancellor, in moving a reversal of the judgment, that if it stood, "the effect of it would be to place in a Court of Justice the administration of a father's estate between his children, his creditors, and all others to whom he owes a natural or moral obligation, during the rest of their joint lives." And Lord Redesdale, on referring to the "endless variety of the opinions of the Judges," said, that "if the judgment stood, it would leave the law of Scotland in a state of uncertainty dreadful to everybody in the situation of a parent, and mischievous to every one."

(2.) *Succession.*—The Court of Session decided that the succession to personal estate was to be governed by the law of the place where it happened to be situated at the death of the intestate. The House of Lords set this right by declaring, in several cases which occurred at the end of the last and the beginning of the present century, that all such questions were to be governed by the law of the domicile of the intestate.

(3.) *Entails.*—The Court of Session confounded the institute with an heir, and gave to the construction of the fettering clauses a liberal or free interpretation. The House of Lords applied the rule which governs all questions as to clauses of forfeiture or irritancy, viz., that they are liable to a strict interpretation, and the law now is reduced to a satisfactory system, so that few questions arise.

(4.) *Landlord and Tenant.*—The Court of Session decided that the custom of the country should prevail over the express contract of the parties in a written instrument of lease. Two of the cases in which this doctrine was applied came to the House of Lords, and were reversed. (Gordon *v.* Robertson, 2 W. & S. 115; Gordon *v.* Anderson, 3 W. & S. 1.)

(5.) *Public Trusts.*—The Court of Session held that funds raised under the Turnpike Acts for the repair of roads were liable in damages to a person who was injured by his vehicle being upset on the highway in consequence of its coming in contact with stones negligently, as alleged, left on the road. The House reversed; Lord Chancellor Cottenham and Lord Brougham expressing a strong opinion against the alarming doctrine which had been sanctioned. (Duncan *v.* Findlater, Macl. & Rob., 911.) Afterwards the Court of Session fell into the same error, by finding that the funds of an hospital, endowed for the education of boys, were liable in damages to a boy who had been rejected as a

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candidate for admission, improperly as he alleged. This judgment was reversed, without hearing a reply. (Heriot's Hospital *v.* Ross, 5 Bell's Ap. Ca. 37.) And it was observed by one of the noble and learned Lords who took part in the judgment, that the doctrine given effect to in the Court of Session was "contrary to all reason, sense and justice; it is wholly unsupported by any authority, and I think we may safely say it is entirely contrary to the law of Scotland."

(6.) *Private Trusts.*—The Court of Session had sanctioned the doctrine, that trustees could appoint from their own number to lucrative situations under the trust, as factors, law agents, &c. This was set right by the House of Lords in Home *v.* Pringle, in 2 Rob. 384. Of a kindred character was the recent decision in Aberdeen Railway Company *v.* Blaikie (1 Macqueen), where the Court of Session held that a contract for the purchase of iron by the directors of a railway company, from a firm of which one of their number, who was their chairman, was a partner, was valid and binding on the company. This was reversed on the rule that the directors were trustees, and could not enter into contracts with themselves individually, which might be in conflict with the interest of their constituents.

(7.) *International Law.*—Previous to the reversal of the decision of the Court of Session in Don *v.* Lippmann (2 Sh. & Macl. 682), there prevailed in the Court of Session very erroneous notions as to what were pleas belonging to the contract, and what to the remedy, particularly as to the plea of prescription which in Don *v.* Lippmann the Court of Session held to be governed by the law of the place of contract. The judgment of Lord Brougham, in moving the reversal in that case, contains a most valuable exposition of the law on this subject, which conclusively fixes that prescription, belonging as it does to the remedy, is to be governed by the law of the place where that remedy is sought, the *lex fori*, and not by the law of the place where the contract had been entered into.

(8.) *Debtor and Creditor.*—The result of Millar *v.* Small, already referred to, (and there were about the same time sundry other cases to the same effect), is another illustration of the proposition I am now considering, that one ground for the confidence of the people of Scotland in the administration of justice in the House of Lords was, that great principles of general law, which the Court of Session had infringed, were restored, and the law of Scotland prevented from running into confusion.

647. Do you think it would tend to reduce the number of appeals, and to strike off those which were of a frivolous character, if it was known that there was a man learned in Scotch law sitting in the Court of Appeal?

It might have that effect.

648. *Chairman.*] You have a system of appeals in Scotland quite independent of the appeals to the House of Lords, have not you?

There is an appeal from the Sheriff-Substitute to the Sheriff, and then from the Sheriff to the Court of Session.

649. Is not it very common for an appeal to be carried through all those tribunals upon the most trifling matter?

Yes; there was a case which came to this House during last Session, in which the whole amount in dispute was not more than 15*s.*

650. Lord *Sundridge.*] Was that due to any special cause?

I can see no special cause except what I have suggested, that the parties were persevering. I think what the Lord Advocate has mentioned has a great deal to do with the preponderance of Scotch appeals; that there is an appeal to Judges who are more conversant with a different system of jurisprudence.

651. Lord *St. Leonards.*] With respect to the case of Small *v.* Miller, the Lord Advocate appeared to fancy that it depended simply upon the feudal law; I apprehend you to be of a different opinion?

I was of opinion that it depended upon the construction of a covenant in the contract between the parties; a question of debtor and creditor.

652. Was not the decision in Scotland arrived at with reference to what was believed to be the principle of the law in England?

I think not.

653. *Chairman.*]

653. *Chairman.*] With reference to such cases as that in which the amount in dispute was only 15 *s.*, has it ever occurred to you that it might be expedient to prevent the possibility of any appeal to England, either in some cases or on all cases of that kind?

I think something might be done in that way; I think appeals might be very nearly limited to those which involved questions of law only; you have that to a certain extent by the 40th section of the Judicature Act. Where a case begins in an inferior Court, and the proof is taken there, and there is an appeal to the Court of Session, that section requires the Judge to set out in his judgment the propositions in point of fact which he deduces from the evidence, and the propositions in point of law which he applies to those deductions of fact; and then it declares that there shall only be an appeal from that judgment, so far as regards the propositions of law; I think that the principle of that section might be extended, and made applicable to cases generally, though they originate in the Court of Session.

654. Do you think you could in any way, either with reference to the amount in dispute, or otherwise, exclude the right of appeal to the House of Lords in particular cases in Scotland?

I do not think it would be satisfactory to exclude any appeal upon matter or law. The value becomes important, as the case proceeds, to the party; but, besides that, the case may be important to the jurisprudence of the country.

655. Lord *Lyndhurst.*] Very important rights are tried sometimes in suits which involve small sums of money?

Very important rights.

656. Earl *Grey.*] Are the Committee to understand you to mean, that it would be impossible to constitute any satisfactory Court of Appeal which should give a final judgment upon points of law in Scotland itself, and that it is necessary that they should be brought to some tribunal out of Scotland?

I think it is: local influences and local prejudices have hitherto existed; I do not know that they now exist, but they may be supposed to exist; and I think the people of Scotland would not be satisfied if the Court of Session in any case, however small in point of value, were the final Judges on questions of law.

657. They would not be satisfied with any tribunal which might be constituted in Scotland without bringing the cases to this House?

No; I think the dignity of the tribunal has a great deal to do with the satisfactory nature of the decision.

658. *Chairman.*] Does your experience, either with reference to Scotch appeals, or English and Irish appeals, enable you to say whether you think it essential, or very expedient, that the tribunal of appeal should be open longer than during the Session of Parliament?

I think that would be useful; I think it would be desirable to clear off at the end of every Session of Parliament, or at the end of every time when this tribunal ceased its sittings, all the cases ready for hearing; and that frequently is not done.

659. Lord *Lyndhurst.*] Are not appeals occasionally brought for the purpose of delay?

No doubt that is one motive. That would be remedied by clearing off the paper in the way which I propose. There is another cause of a kindred character which improperly encourages appeals. As the law at present stands, an appeal from Scotland has the effect to stay execution, and I have known petitions of appeal to be presented, especially towards the end of the session of the Scotch Courts, for the purpose of obtaining this stay of execution. In the declaration of right by the convention of estates, 1689, c. 13, the right of appeal was made subject to the proviso that "the same did not stop the execution of the sentences" appealed against. But very soon after the Union, an order was made by the House of Lords, 19 April 1709, "that after an appeal shall be received by this House from any sentence or decree given or pronounced by any Court in Scotland, and an order made by this House for the respondent to answer such appeal, and notice of such order duly served on the respondent the sentence or decree so appealed

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appealed against from such time ought not to be carried into execution by any process whatever." This order, subject to certain regulations, is in operation to the present day. The Court of Session may indeed order execution to be issued, notwithstanding the appeal; but this is almost never done without caution or security being given by the respondent in the appeal to refund the appellant in case of a reversal; and until liberty is so given, and the requisite security found, the judgment appealed against is effectually suspended. I think this regulation is not expedient, for *primâ facie*, the judgment appealed against ought to be presumed well founded, and ought to receive effect, unless on cause shown execution is stayed. I believe it happens most frequently, that execution is stayed until the final hearing, because a respondent is often unable, and always unwilling, to procure security against the consequences of a reversal. It appears to me that this matter requires revision.

660. In the Court of Chancery there is no appeal for delay now?
No; there is no delay now.

661. *Lord Privy Seal.*] Do you think it important that, for Scotch cases, the Court of Appeal should be the House of Lords?
I think it is.

662. Lord *Sundridge.*] Have you any opinion to offer upon the desirableness, where there is a difference of opinion between the members of the tribunal, of each member expressing his opinion?
I am disposed to think that each Judge should express his own opinion. I think it would be more satisfactory to the suitors. When the judgment is given by the presiding Lord, there is no security that the other Judges of the tribunal have attended to the argument, and have fully possessed themselves with the views of the losing party; and a Court has not only to do justice between the parties, but also to satisfy the parties that justice has been done.

663. You think it is a guarantee for the due attention of the majority of the Judges?
I think it is.

664. *Lord Privy Seal.*] Would you think it important that the judgments, whether of one Judge or of several, should be written?
I think that that in general is desirable; but sometimes the matter is very clear, and is decided upon the hearing. Some of the best judgments we have are judgments which were delivered immediately after the argument was over.

665. Earl *Stanhope.*] Do you believe that there is a great difference, practically, between the judgments delivered in the House, and those which, after correction or revision, appear in print?
There are two sets of reports; there is the authorized set, and the set of reports called the Scottish Jurist. The authorized report frequently differs from the judgments actually delivered.

666. Lord *Lyndhurst.*] May not a man have a general impression with respect to a case which, if he has to deliver judgment, and consider all the reasonings which bear upon it, he may be led to alter?
Yes; and it may be desirable that he should revise the judgment, and alter it.

667. Therefore there is some danger in suffering the majority to give the judgment without each party having to consider it minutely himself?
Yes; two minds may come to the same conclusion, but by a very different course.

668. Lord *Brougham.*] Are you not aware that in other Courts, as well as in the House of Lords, there may be some difference between the reports by the authorized reporter and the short-hand writer's notes?
It is not confined to the House of Lords.

669. Do not the Judges of other Courts very often revise and correct the reports of their judgments?
They do.

670. *Lord Privy Seal.*] Which is considered the authorized judgment to refer to?
There is a reporter appointed by the House, and his report is considered to be

be the authorized report. Those are the corrected judgments. In the other set of reports, you have the short-hand writer's notes verbatim.

671. Lord *St. Leonards.*] Are you aware that a good many of the opinions which are delivered are never corrected at all by the person who delivers them?

I am not aware by whom the corrections were made.

672. *Chairman.*] You say that the judgment as reported in the more authorized reports often is more condensed, and differs from the short-hand writer's notes; is there ever any difference in the sense of that which is pronounced as between the parties?

No, not in the result.

673. It is only put into a better style, and expressions which, from its not having been previously committed to writing, may have been used hastily, are corrected, in order to leave the report perfectly accurate?

That is so frequently.

674. Earl *Stanhope.*] Do you, from your recollection of the judgments you have heard delivered, and comparing them with the authorized reports, ever find either arguments added or suppressed, or a change made in the substance; or are the changes confined to the mere manner of expression?

I think they are not confined to the manner of expression; sometimes views which have been delivered by noble and learned Lords are omitted.

675. On the other hand, do you find new branches of argument supplied?

No; I cannot say that I remember any case in which a new branch of argument was introduced.

676. The changes, therefore, consist in omitting branches of argument which have been verbally delivered, but are not to be found in the authorized reports?

Yes.

677. *Chairman.*] Where a judgment is delivered extempore, and not committed to writing, if the Judge sees afterwards that there are some expressions which, upon mature reflection, he thinks may be incorrect, would not he be right in striking them out from the statement of his reasons for his judgment?

I do not see any objection to that course. On the contrary, I think it is desirable, but it should be done at the time.

678. Are you aware that in the reports in all other Courts the substance of the judgment only is given, and no one affects to give the whole which is upon the short-hand writer's notes?

No.

679. Lord *Abinger.*] Do you think it is possible to adopt some mode of excluding appeals which relate only to matters of fact?

Yes; I think that exclusion might be more extensively applied than it is at present.

680. Are there proceedings in Scotland analogous to our statement of a special case, in which both parties agree upon the facts, and seek for a decision upon the law applicable to those facts?

No; but I think that would be a very useful remedy.

681. Might not that be adopted in Scotland?

I think special cases would be very usefully introduced into the practice of the Scotch Courts. In Scotland you must begin your action by summons, and make up a record on it; whereas I think the parties might adjust a special case, and file it before the Lord Ordinary, and have his opinion taken upon it, as is now done in the Court of Chancery.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to To-morrow, Four o'clock.

Die Veneris, 14° *Martii* 1856.

LORDS PRESENT:

Lord Chancellor.	Earl of Ellenborough.
Lord President.	Viscount Gordon.
Lord Privy Seal.	Lord Sundridge.
Earl Stanhope.	Lord Brougham and Vaux.
Earl Grey.	Lord St. Leonards.

THE LORD CHANCELLOR in the Chair.

Evidence on the Appellate Jurisdiction of the House.

Charles Clark, Esq.

14th March 1856.

CHARLES CLARK, Esquire, is called in, and examined as follows:

682. Lord *St. Leonards.*] YOU are the official reporter of this House in appeal cases from England and Ireland?
I am.

683. You yourself take a short-hand note of what may be called the judgments which are delivered by the law Lords?
Of every judgment.

684. Do you make up your report exclusively from those notes?
No; the House of Lords furnishes me with a report, which is provided by the short-hand writer; but I always correct the notes so furnished to me by my own.

685. You have before you, therefore, as far as short-hand can effect it, everything which has fallen from the law Lords?
Everything which has fallen from the law Lords.

686. In making up your report, do you give the substance of that which is before you?
The very words of the legal propositions, omitting nothing but those repetitions of style into which almost every orator falls, and which it is desirable should be omitted from every report.

687. But you omit nothing in point of substance, or of the statement of the law?
On the contrary, I am extremely desirous that the very words of a legal proposition should be accurately taken.

688. Some of the opinions which I have myself delivered I believe you have reported without my seeing them?
I have.

689. In those cases you have followed your own report?
Of course.

690. When you have sent the proofs to me, and asked me to look over them, what has been the extent of the alteration which I have made in them?
Very little.

691. Have I, to your knowledge, ever altered a single proposition of law?
No; and indeed I have taken great pride to myself that the report has met with your Lordship's approbation so entirely that no alterations have been made, except in mere matters of style.

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692. Has anything passed between you and the printer in reference to the state of the proofs?

Yes; in speaking to the printer respecting the expense of the reports, I have told him I take the utmost care in preparing them, and have said to him, that as regards my copy and that which was furnished of the judgment of the House of Lords, he had never seen copy which (to use a printer's phrase) was more clean; and he admitted it was so. I gave that to him as a reason why he should not charge so expensively for the reports.

693. Then it would not be correct to say that those judgments would not bear being at once printed from the short-hand notes?

The short-hand writer's notes would contain a variety of repetitions, in point of phraseology, which a proper corrector would take care to omit; in no other respect could it be said.

694. According to your experience, taking the cases in which what are called the judgments of the House have been delivered *vivâ voce*, do you think any such judgments could less need correction than those which you have had before you?

No.

695. *Lord Chancellor.*] I believe in important cases, in which the House takes time to consider its judgment, the opinions of the Lords are generally written?

They are; your Lordship has written several; I do not think Lord St. Leonards has written more than two.

696. Lord *St. Leonards.*] Do the opinions which are delivered, taking my own for example, contain a correct statement of the facts, and a clear enunciation of the law, as delivered?

Certainly, as delivered; and the reports are exact transcripts of what was delivered by your Lordships, I omitting every part which can be properly omitted, to prevent the report being too long, and the expense of the reports too great to the public: after all, they reach to a greater extent than I desire them to do, in some instances.

697. Is that on account of their being elaborate or not?

It is. In the case of Hawkes *v.* The Eastern Counties Railway Company, I think there are four or five occasions in the course of the report on which I have been obliged to say, "Here his Lordship fully stated the facts." I had prepared the statement of facts at the beginning of the report, and it would have been an unnecessary elongation of the report to repeat it.

698. In that case there was a written opinion?

Yes, there was.

699. *Lord Chancellor.*] In the very long case of Ranger *v.* The Great Western Railway Company, you very properly did the same?

Yes; your Lordship went through the whole history of that case. As I had been obliged to make the statement before giving the argument, I thought it unwise to repeat the facts in the judgment, and I took upon myself the discretion of omitting them.

700. *Lord President.*] I presume that spoken judgments would usually be longer than written ones?

Of course; a speaker almost always repeats, however careful he may be.

701. *Lord Chancellor.*] Written opinions you do not submit to noble and learned Lords, do you?

I think I have done so in one instance, where I believed there had been a word written by mistake; that was all. In the Bridgewater case, I believe, all of your Lordships desired to see your judgments.

702. You submitted the print of those judgments to all those members of the House who had given written judgments?

Yes.

The Witness is directed to withdraw.

SIR RICHARD BETHELL (Her Majesty's Solicitor-General), attending, is further examined as follows:

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703. Lord *Brougham.*] IN reference to the case of Graham *v.* Graham, you stated on a former day that on the judgment being given in that case, one of the Lords present said he was not aware that the case stood for judgment, and he was not prepared to give judgment; but he concurred in what he had heard. You were asked, "Was not what he stated, that he had heard the case, and concurred in the reasons which were given?" to which you answered, "Yes." Was not the fact this, that he was not prepared to go through the arguments, but he was prepared to give judgment? He had not reduced his argument to writing as was his practice in many cases, but he was prepared to give judgment; and he concurred entirely with the reasons given by the Lord Chancellor?

I dare say that was what your Lordship intended to state; it was not exactly the impression which was left on my mind by what was stated.

704. He must have been prepared to give judgment, because he stated that he concurred in the judgment, and for the reasons which had been given?

Given by the Lord Chancellor.

705. Did not that mean that he was prepared to give judgment, but was not prepared to state the reasons, relying as he did upon those of the Lord Chancellor, in which he concurred?

I have no doubt that must have been the meaning of it, as your Lordship now states it to be, and I might have misapprehended it: your Lordship was present throughout the whole argument, and attended very fully to the case; I have no doubt, therefore, that what your Lordship intended to say was to the effect which has been now stated. The impression upon my mind was, that you were not prepared to give judgment in the case; I referred to that case, however, for this reason: Lord St. Leonards had prepared, in writing, a very elaborate judgment; I think it occupied an hour and a quarter to read it; it was a most elaborate argument. My regret was, that the House of Lords, hearing that argument, particularly as your Lordship was not prepared to give your reasons, had not adjourned the case for further consideration, in order that proper attention might be given to the argument it had heard.

706. You were counsel for the appellant?

I was counsel, undoubtedly, for the appellant, and therefore, you will say, was a partial judge of Lord St. Leonards' argument.

707. Did not that circumstance incline you to wish that there should be a delay, for the purpose of further considering that argument?

Your Lordship knows perfectly well, from your own experience at the Bar, that when a counsel has discharged his duty in argument, to him, save for the interests of justice, the decision of the case is a matter of the most perfect indifference.

708. Does not that indifference begin, however, after the judgment is pronounced, rather than in the interval between the argument and the judgment?

It would be wrong to say that you were perfectly indifferent, because your duty is not discharged till the judgment is over. I had no wish for the House of Lords to have adopted a different course from what it did, save that I believed it was the course which would have been the most dignified, and the most conducive to the interests of justice.

709. In the particular case of Graham *v.* Graham, there would have been no difference in the result, would there, even if I had not joined in the judgment?

No; because, unfortunately, we should have had the Lord Chancellor affirming the judgment, with Lord St. Leonards dissenting from that judgment; and then, according to the rule in such cases, *semper præsumitur pro negante,* the judgment would have been affirmed; your Lordship's concurrence or non-concurrence in that case would have made no difference.

710. The question which I put to you on the former occasion was, "Was not what he stated, that he had heard the case, and concurred in the reasons

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which had been given," that is, given by the Lord Chancellor, and your answer is, "Yes"?

My impression, from what was stated at the time was, that your Lordship had not prepared yourself to give the judgment; when your Lordship said you were not prepared to give judgment, your Lordship's words admitted of two interpretations; either that you were not prepared to deliver your reasons, or that you had not made up your mind judicially upon the subject. From what your Lordship has now stated, I have no doubt it was merely that you were not prepared to deliver your reasons.

711. At question No. 136, you were asked, "You would not have the Court composed of Equity Judges, Common Law Judges, and Consistorial Judges, to make it parallel to the Judicial Committee, but you would have it composed of four able and learned men, who had sufficient experience, sitting under the Lord Chancellor, and applying for help occasionally to other Judges only as assessors?" To which you say, "I hope in a few years the lawyers of this country will be equally conversant with law and with equity, and that they may not be divided hereafter into two classes of men, both of them one-eyed, one having an eye for law, and the other an eye for equity. While that distinction continues, I think the number of Judges will give you an opportunity of selecting from all sources competent and able men." Entirely agreeing with you in the hope that one day there will be seen the kind of fusion to which you refer, what is your opinion as to what ought to be the constitution of the Court till that fortunate day arrives?

It is very difficult to answer that question in the abstract, save by stating that you must take the most eminent men, whether you take them from the one side or from the other. It is scarcely possible to convey an adequate idea of the great chasm which divides the mind of the common lawyer from the mind of the equity lawyer, and the great difference which exists in the mode of viewing cases, according as the mind has been trained, either by the rules of common law or by the more extended principles of equity. The Lord Chancellor may probably recollect, which is a remarkable instance of what I am now stating, that some years ago, in arguing a case before the Exchequer, which was one of great moment, upon a question of tithes, the Common Law Judges had arrived at a particular conclusion, because they were actually not aware that in a certain state of circumstances there existed a remedy in equity. Upon my stating that remedy, the correctness of which statement was confirmed by the Lord Chancellor, then a Judge of the Exchequer, a different view was entertained; and not only was the decision contrary to what it would otherwise have been, but a former case was regarded by the learned Judges as a case fit to be overruled. Observe what a remarkable thing that was, that learned Judges at Common Law should be unaware of the existence of a particular remedy for a wrong in the jurisprudence of this country.

712. In the course of your previous evidence you mentioned a case in which one of the noble and learned Lords who decided against your argument was not present during your opening, and that he applied to your junior, the next day, for a note of your argument; did you refer to me?

No; your Lordship was not one of the Lords who heard the argument.

713. Lord *St. Leonards.*] To whom did you refer?

To your Lordship.

714. Are you quite sure you are accurate; because I have a firm conviction that I never, in any one instance in which I have assisted the House in its judgment by my opinion, was absent during the argument of any counsel; except that in two cases in which I had to attend the Royal Commission for the Patriotic Fund at about two o'clock in the day, I stopped the counsel at the Bar, and told him I was compelled to leave the House upon public business, but that I would have a note taken of what passed during my absence, so that no damage would accrue to either party?

According to my recollection, your Lordship was absent during the whole of my opening; but I do not mean to rely upon my own recollection alone. My junior, Mr. Selwyn, came to me, in consequence of some observations which your Lordship made in your place in the House of Lords, and said, "Lord St.

St. Leonards has forgotten that he was absent during the opening of that appeal, and that he applied to me for a note of your argument."

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715. At what time did you begin to speak?
I do not remember.

716. Have I, or not, been in the constant habit of sitting throughout every argument in which I have taken a part subsequently in giving my judgment to the House?
I do not remember any other instance in which your Lordship has not attended to the whole of the argument, and in which your attention did not appear to be given in the most exemplary manner.

717. Lord *Brougham.*] You were counsel for the appellant in Upfill's case, were not you?
I was counsel in the cause.

718. Do you recollect whether there was not a great pressure on all sides' both by the appellant and respondent, to have the question decided as speedily as possible, on account of the great number of cases which were pending in the Master's offices?
There was a very great pressure put upon the House of Lords to decide that appeal during the short remainder of the then Session: I think I was the counsel who pressed that very strongly upon the House; and I believe there was very good reason for that application.

719. Does it or does it not consist with your recollection that an application was made, and pressed upon me for delay, till Lord Truro, the Lord Chancellor, should be able to attend?
My recollection is, that Mr. Daniel, who was counsel for the party opposed to me, pressed upon your Lordship not to hear the appeal: I do not know whether he desired it should stand over till Lord Truro was present or not; I do not recollect.

720. The report shows that he stated he was going to apply to the Lord Chancellor to attend: my answer was, that it was irregular for a party to canvass any noble Lord to attend?
Your Lordship, very likely, is quite right.

721. Are not you aware that Lord Truro had only just then come into the Court of Chancery, it being the beginning of August, and he having taken his seat as Lord Chancellor after the middle of July?
I think it must have been in the year in which Lord Truro came into the Court of Chancery.

722. Are not you aware that the reason assigned was not merely Lord Truro's having just taken his seat in the Court of Chancery, and never having attended appeal business in the House of Lords, but, also, that waiting till he could assist must have put off the decision of the case till the next Session?
I can only recollect that there were very strong reasons, having regard to the state of the business under the Winding-up Act, why that much-agitated question should be at once heard, and finally disposed of: I stated those reasons, and pressed for the hearing of the appeal.

723. Is it your opinion, from what you knew of that most excellent and industrious Judge, Lord Truro, that if we had waited till he came to assist, in all probability, not to say certainly, the hearing of the case must have gone over the long vacation?
I dare say if we had waited, the opportunity of hearing the appeal during that Session would have been lost, and that would have been productive of great inconvenience and of great expense to a number of persons whose cases were then pending in the Master's offices.

724. Do you recollect my stating that I had communicated with Lord Cottenham, and found that he took the same view of the case as I did?
I think your Lordship made some statement to that effect.

725. Were not Lord Cottenham's judgments, in cases of that sort, subse-

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quently reviewed by his successor in the Court of Chancery, in Beasley's case particularly?

Yes. I think Beasley's case was heard before Lord Chancellor Truro.

726. And reversed?

I think the order was altered; but I forget at the present moment.

727. Are you aware that Lord Cottenham had a strong leaning of opinion with respect to enlarging the liability of railway speculators?

No; I never heard him express that opinion. Lord Cottenham was very cautious in what he said, and it would have been very difficult to have found him admitting that he entertained any prejudice.

728. You are aware that, two years afterwards, when the contrary principle was adopted, it was after the learned Judges had been consulted upon a part of the subject?

The whole of the decisions at law and in equity, but at law particularly, upon that subject, will ever remain a great opprobrium to Westminster Hall. For some years the tide set one way, and then of a sudden it turned and set the other way, exhibiting the great want of the power of the English lawyer to deal with matters where he finds no crutches in his precedents to assist him in walking.

729. Had there not been a great conflict of opinion among the different Courts upon this subject?

Yes; there had been differences of opinion.

730. Were you aware, in the course of that argument, that I had a strong inclination to decide the cause immediately, without the delay intervening of the long vacation; and that also I had a strong inclination, as a Judge of Appeal generally has, and ought always to have, to support if possible the judgment appealed from?

I have no doubt that your Lordship would always presume for the judgment until it was shown to be wrong; but as to what was said or done by the House, or by your Lordship, as presiding in the House during that particular argument, I cannot say that I have any recollection.

731. Have you the least idea that the circumstance of a near relation of my own having decided one way, and the Court having decided the other, would in the slightest degree influence my opinion, or do anything except to make me the more anxious, if possible, to affirm that contrary opinion?

It would be ridiculous and absurd to the last degree to entertain any such notion.

732. Are not you aware that when that contrary judgment, as it has sometimes been called, though not accurately, was come to by the House of Lords a year or two afterwards, the Lord Chancellor did expressly state, in moving that judgment, after consulting the Judges, that it was a decision, not upon the point of law, but the facts of the case as well as the legal point?

The impression on my recollection is, that in the subsequent decision of the House, some things were said which had the effect of saving entire the judgment which was given in Upfill's case.

733. Do you consider that, generally speaking, there is less of what is commonly called gossip goes on in the House of Lords among the learned Judges than in many other Courts, both of Law and Equity?

With Courts of Law I am not very familiar; I hear complaints occasionally from members of the Bar.

734. Of extra-judicial observations?

A tendency to talk—loquaciousness.

735. The Judges making themselves, as it were, *lex loquens*?

A great tendency to forget that first requisite on the part of a Judge, the recollection, as your Lordship expresses it in your Life of Sir William Grant, that until his turn to speak comes, it is his province to listen, and not to talk. But the House of Lords has been better during the last two years than it was before: I have sometimes been interrupted no less than three or four times before I could finish one sentence, and that not a long one, by noble Lords

getting

getting up to talk with one another; but that more particularly used to occur two or three years ago.

736. Did you practise much in the House of Lords during the time which has been frequently referred to, when Lord Cottenham, Lord Campbell and myself, or Lord Lyndhurst, Lord Campbell and myself, and sometimes all five, carried on the judicial business?

Yes, a good deal. When I spoke of having had experience in the House of Lords during 12 or 14 years, I meant to speak of the time during which I have been engaged as much in the House of Lords as any other counsel; I had considerable practice before that time.

737. Was the business, or was it not, satisfactorily conducted at that time by those four Lords?

I think that was the palmy state of the House of Lords, in point both of the minds and the experience and the diversified knowledge which distinguished the members of the tribunal of the House of Lords, during that period.

738. When you refer to the case of Sir William Grant, was not he a singular instance of what you desire?

I am sorry to say it is an instance to be cited as an admirable example of what is not so often followed as it ought to be.

739. Is not it expedient, with a view to getting at the truth, and understanding the points of the argument, that the Court should from time to time break in upon the counsel with questions?

We never complain of pertinent questions; they do not fall under the denomination of talkativeness by the Court.

740. But Sir William Grant never interfered even to put a question?

Frequently, if the Judge would wait for the next sentence of the counsel, he would find the question with which he breaks in upon the counsel answered, and therefore unnecessary; I dare say Sir William Grant had observed that in his experience.

741. It has been suggested in a question which was put to Mr. Roundell Palmer, that all those extra-judicial observations of the learned Judges are sure to be reported in the newspapers; is there ever mention made in the newspaper of the appeal business in the House of Lords, unless in very remarkable cases, such as the O'Connell case, and the Bridgewater case?

I never read that part of the newspapers, and therefore am quite unable to say; I think, however, I may venture to say that I do not remember ever seeing any report of judicial proceedings in the House of Lords in a newspaper.

742. Lord *Sundridge.*] I did not understand the answer which you gave on a former day at all to imply your opinion to be, that it was the habit of noble and learned Lords in the House of Lords to give judgment upon cases which they had not heard; I understood you merely to say that the instances to which you have referred had arisen, and that they illustrated your statement that there was a certain degree of informality in the proceedings of the Court?

Your Grace is perfectly right, and has exactly explained what I intended to say.

743. Lord *Brougham.*] Are you not aware that Judges very commonly consult other Judges who have not heard the argument upon points which may arise in the course of the case?

Frequently.

744. Did not Lord Eldon consult Sir William Scott upon questions of international law, though he had not heard the argument?

Frequently. Nothing in the world is more common than for a learned Judge in Equity to say, I have had an opportunity of mentioning this matter to some of the learned Judges of one of the Courts of Common Law, and I am told so and so.

745. Though that Judge had not heard the argument?

Of course he could not have heard the argument.

746. Are you aware that in criminal cases, where a question of life and death

Sir Richard Bethell, M. P.

14th March 1856.

is concerned, a learned Judge will consult his brother Judge upon a point of evidence?

He frequently goes out for the very purpose of consulting his brother Judge upon a question.

747. You are not aware, probably, of the mandamus cases, in reference to the Poor Law, which occurred in the Court of King's Bench under Lord Denman, Mr. Justice Patteson, Mr. Justice Williams and Mr. Justice Littledale, when their Lordships differed?

No.

748. You are not, therefore, aware of the parties on both sides of the question having applied to mé for my opinion upon it, which I gave to some of them in writing, and that although a mandamus is not the subject of an appeal, and therefore the decision was a final one?

I was not aware of it.

The Witness withdraws.

R. Palmer, Esq., M.P., Q.C.

ROUNDELL PALMER, Esquire, M. P., Q. C., attending, is further examined as follows:

749. Lord *St. Leonards.*] IN the case of Shortridge *v.* Bosanquet, what is your recollection as to the circumstances of the case coming on when I was not present?

I think I can state with tolerable accuracy what took place so far as it came to my knowledge, for I, like your Lordship, was not present when my learned friend opened the case. The case came on very late in the day, and very unexpectedly to me. My client who instructed me was present, and he immediately sent down a despatch to me, to say it had unexpectedly come on, the counsel in the previous case, I believe, not having been heard in reply. I did not, however, receive the message in time to go to the House of Lords that day. When my client came to me afterwards, he told me to my great surprise that the Solicitor-general had made an extremely short opening, treating it as a clear *primâ facie* case, and then concluded, and that I should be heard early on the following day.

The Witness withdraws.

Ordered, That this Committee be adjourned to Thursday the 3d of April, Two o'clock.

Die Lunæ, 7° Aprilis 1856.

LORDS PRESENT:

Lord Chancellor.	Earl of Ellenborough.
Lord Privy Seal.	Viscount Gordon.
Duke of Somerset.	Lord Sundridge.
Earl of Derby.	Lord Redesdale.
Earl Stanhope.	Lord Abinger.
Earl of Carnarvon.	Lord Elgin.
Earl Grey.	Lord Campbell.

THE LORD CHANCELLOR in the Chair.

Evidence on the Appellate Jurisdiction of the House.

The Right Hon. Joseph Napier, M. P.

7th April 1856.

The Right Honourable JOSEPH NAPIER, a Member of the House of Commons, attending, is examined as follows:

750. *Chairman.*] YOU are a Queen's Counsel at the Irish Bar?
Yes.

751. Of what standing?
I was made one in 1844.

752. You filled the office of Attorney-general for Ireland at one time?
I did.

753. You have practised occasionally at the Bar of the House of Lords?
Yes.

754. Have you had sufficient experience, in your practice at the Bar of the House of Lords, to be able to state to what extent the Appellate Jurisdiction is or is not carried on satisfactorily, and whether you can suggest any improvements, if you think any are required?
I will speak only with regard to Irish cases. With regard to the law cases from Ireland, the great matter we complain of is the delay, and the expense. When they are heard, I should say they are admirably heard. The Judges almost invariably attend, and when the Judges have attended, I have always had the greatest satisfaction in appearing there; and I think that, upon the whole, the cases are taken the greatest care of, and that everything is satisfactory, except the very great delay that we find in bringing the cases forward. There were one or two occasions, I think, where the Judges did not attend, and in those cases, I think, the profession in Ireland have not been satisfied, because our Court of Error in Ireland consists of the twelve Judges.

755. You are speaking only of writs of error, not of appeals from decrees in equity?
I am speaking, first, of the law cases. Our Court of Error, in Ireland, consists of the twelve Judges, and when the cases come over here, they certainly are dissatisfied, I think, where the House of Lords deals with them without the assistance of the Law Judges. One or two cases have occurred of that kind.

756. When were those?
There was a very remarkable case before my time—in Lord Tenterden's time, when Lord Tenterden and Lord Wynford sat in the House of Lords—the celebrated case of Pluck *v.* Digges. The decision in that case unsettled a good

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deal of what was considered to be the Irish law upon the subject of landlord and tenant. It was decided by those two noble and learned Lords in a particular way, that gave great dissatisfaction to some of the Judges and the profession in Ireland. The consequence was, that it has not had the authority of a decision, but has always been attempted to be evaded and carped at. But afterwards the law cases, particularly, I should say, during the time of Lord Chief Justice Tindal, were very admirably decided indeed. He gave great attention to them, and always endeavoured to make himself master of any peculiarities in the Irish law. There was one case in my own time, coming from the Court of Error in Ireland, which was decided by two Lords, without the assistance of the Judges; but there was nothing very remarkable about it.

757. When was that?

That must have been about 1850. It was the case of Smith *v.* Darley. It was decided by the Lord Chief Justice Campbell and Lord Brougham.

758. In the case of Smith *v.* Darley, did the House agree with the judgment in Ireland?

There was a difference of opinion among the Judges in Ireland.

759. But the House agreed with the majority?

It agreed with the majority. The case first came from the Queen's Bench in Ireland, and then it was reversed in the Exchequer Chamber by a majority, and the House here agreed with the reversal. But the great difficulty of getting the attendance of the Judges here makes it very uncertain when cases are to come on, and parties are put to enormous expense in consequence of that delay. The Judges cannot attend during term; their time is so much occupied that it is very difficult to get them with any degree of certainty to attend. There was a very remarkable case from Ireland, a marriage case, where the Judges did attend; but it was on the eve of the circuit; and Lord Chief Justice Tindal, in his judgment, in delivering the opinions of the Judges, stated that there had been great fluctuations of opinion about it, and he apologised for not having had time to give that kind of deliberate judgment upon it that he would have desired. He expresses that in his judgment. Now the Lords, in that case, were equally divided upon it; and I find constantly, that persons, according to their particular views, will say, that the opinion one way is equally balanced by the opinion the other way; because Lord Chief Justice Tindal had not time, as he said, to go into the question with that clearness and deliberation that he could have wished. I think it diminishes the authority of a decision when it is subject to such observations.

760. Was not what Lord Chief Justice Tindal said merely this, that the Judges were sorry that they had not had time to put their judgment into better language?

No, I think it was more than that; I should say that Lord Chief Justice Tindal clearly meant to express that there had been a great deal of fluctuation of opinion among the Judges, and that he was rather himself responsible for the way in which the judgment was made up. I know that what he said exposed the judgment to the observation, that if they had had more time and more opportunity for full deliberation, perhaps a different result might have been come to. I am not meaning to say that the decision is not a most able and elaborate one, and that if Lord Chief Justice Tindal had not made that declaration, perhaps it might not have been subject to any criticism. But I think the delay is a very great evil. Cases sometimes stand for years before they are heard. There is another thing which I think would be a very great object for the Irish Bar; if there was a certainty about the time of hearing the cases, parties could send over at least one of their own counsel when a case of importance comes on appeal here. But now new counsel and agents have to be instructed here in England. It is not often, indeed very rarely I think, that counsel from Ireland come. In former times, of course, the intercourse was too difficult to allow of it; but I think it would be a most desirable thing, both for the satisfactory hearing of the case, and for the advantage of the Irish Bar, that there should be more facility and opportunity for their attending, so that at least one Irish counsel engaged in the cause should be able to attend. But at present it is very difficult to know when a case is likely to come on. Sometimes it waits for many months; indeed, for years sometimes.

761. Earl

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761. Earl of *Derby*.] Does this part of your objection apply equally to cases of writs of error and to cases in equity?

Not so much to cases in equity; because in the case of writs of error it is almost the invariable practice to have the attendance of the Judges. But in cases from the Courts of Equity, the Law Judges are not needed, and the cases are disposed of by the House itself.

762. But the inconvenience which you have just stated, of not having any counsel who have been concerned in the case in Ireland at the hearing in the House of Lords, applies equally to writs of error and to cases in equity?

It does, but not to so great a degree.

763. *Chairman*.] Would that objection be remedied, at least in great measure, if some fixed time were always settled for hearing cases from Ireland?

That is what I was going to suggest, if any such time as the Judges could conveniently attend were arranged when the Irish cases could be taken. That is a matter of detail and arrangement; but it would be very important. Then, with regard to equity cases, I think the construction of the Court of Appeal is too much a matter of chance. I remember a case in 1851—it was in Lord Truro's time—Lord St. Leonards had not then been made a Peer—Lord Truro was sitting alone, and a case came before the House of Lords which involved a very nice question upon our Irish Registry Act, and some decisions upon it of Lord Redesdale and those who followed him in office, of a peculiar kind, upon the construction of the Irish Registry Act, affecting, of course, very large property settlements in Ireland. When it came before Lord Truro he had no assistance, and I remember that we had to lend him a text-book, which he might take with him to read it at home, because the whole subject of the Irish Registry Act was new to him, and he had to take home this text-book and to read it in the evening in order fully to understand the argument. Afterwards, I must admit, he certainly delivered a very able and elaborate judgment upon it, and a very satisfactory one; but I remember the kind of fidgetiness that was felt at having a single Judge sitting there not familiar with our Irish law upon the Registry Act, and who was to give a judgment that would settle or unsettle the law affecting property in Ireland.

764. Earl of *Derby*.] From what Court was that appeal?

From the Court of Chancery in Ireland.

765. From a decision of the Irish Lord Chancellor?

Of the Irish Lord Chancellor.

766. Who was at that time the Irish Lord Chancellor?

The present Lord Chancellor Brady. The influence of the Court of Appeal over the Court below, I think, is very important to be considered, the Court below being subject to the control of an appeal. The facility for appealing acts usefully upon the Court, even where the right of appeal is not actually exercised, and therefore it is very important to have the Court of Appeal constituted in some settled way, so that it shall not be matter of chance or contingency who is to be there, and who is to decide; whether there shall be one Judge or two Judges, whether there shall be an authoritative and settled tribunal to settle the law in a proper way; the parties should know exactly the tribunal before which they were to go. When the cases come to a hearing, I should say that I have always been satisfied with the way in which they have been heard; I think nothing can be better when they are heard; I should be very sorry indeed to see the Court of Appeal separated in any respect from the House of Lords; I think the dignity of the tribunal, and the high feeling, and all that tone which is kept up, is of very great importance in a Court of Appeal; but it would be of great advantage to have it constructed in a more fixed and settled way, so that the decisions would go out with more authority, and to have arrangements for hearing certain cases at certain periods, so that persons would know pretty well when their cases would come on. There is often great expense in the printing of cases, and there is a great delay in matters of procedure, which I think could easily, with a little care, be got rid of.

767. *Chairman*.] Does it occur to you that the framing of the case might altogether be dispensed with, and that it would be sufficient if the House of Lords had only exactly the same papers which the Court below had, the pleadings and the evidence?

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I think it would be a great convenience that the counsel in the cause shoul just have the same briefs that they had below; and probably it would be very useful always to have a short-hand writer's note of the arguments and the judgment below furnished to the Court above.

768. That would be incurring an expense not now incurred, and which would be very considerable, would it not?

I think they frequently print the judgments in their cases.

769. Is not that very often unnecessary, as the judgment is generally to be found printed in the common reports?

I think it is well to secure a report of the judgments below; because cases coming before a Court of Appeal come with great advantages, having been so much considered. The object, then, is to settle the law, and to get rid of anything small or technical in the case; and the case having been so well considered before it comes up, I think it is a great advantage to have the report of the judgments. One suggestion has been made about having some of the Judges to attend from Ireland; of course I do not presume to speak about Scotland; that will be spoken to more effectually by the Dean of Faculty; but speaking with respect to Ireland, I should think that that casual attendance of the Judges would be unsatisfactory, by calling over one or two Judges occasionally to assist from Ireland; I do not think it would work. To have the Judges taken away from their own Courts and their books and everything, and to come over here for a particular occasion, I think it would not answer. The twelve Judges sit in the Court of Error, and make their decision there; and to select from those one or two to come over here, I think would not be very satisfactory.

770. Earl of *Derby*.] Have you any suggestions to offer with regard to the number of which the Appellate Tribunal would most conveniently consist?

I have always thought that a large number is a very great evil; I think an Appellate Tribunal of five to sit as Judges would be the best number; I think an Appellate Tribunal of five would make as excellent a tribunal as could be; but I think it is of the greatest importance that the tribunal should be composed of men whose proper and primary duty it would be to deal with the cases judicially, that they should not merely come in to assist; that it should be their primary duty as the members of a Court of the highest character and the highest order, to give their undivided attention to the cases, and to endeavour to settle the law with authority.

771. Would you consider it desirable that such a Court should consist of an uneven number?

There is a great difference of opinion upon that subject; some say that four, so that you might have three to one, is the best number; I have often heard very eminent Judges say that three was the best number; but I should be satisfied with either three or five; I think five would be a good number. If you had the Lord Chancellor, with four Judges sitting with him, I should think that would be a tribunal perfectly satisfactory.

772. *Chairman*.] Do you think that a tribunal of three only, or four, would also be satisfactory?

I think it might; if they were three men of the highest class, I should be perfectly satisfied. But supposing the judgment in the Court below to have been given unanimously, or say by nine or ten Judges, I think that then, when the appeal comes before a very small number of Judges, there is sometimes a little disposition to cavil, and to say, here the decision of so many has been reversed by so few. But as to the number, I would not take it upon me to give any very decided opinion; but I think in all the conversations I have had with men of experience and eminence upon the subject, they all seem to say that a tribunal of five would be the most satisfactory.

773. Better than three or four?

I think so; but it should not be left to uncertainty or to contingency. You should secure a tribunal of as many as you fix, and it should be their chief duty to attend and to sit judicially.

774. If you say that there must always be that number, it necessarily implies that there must be more than five, because illness or other circumstances may prevent any one attending; would you say that it is so necessary to have five, that if five cannot attend, the business should not go on?

No;

No; in all Courts one or two Judges may occasionally be absent from illness or various causes.

775. Earl of *Derby.*] When you suggest that there should not be more than five, would you exclude from the Court of Appeal the present law Lords in the House, with the exception of the Lord Chancellor?

No; I would have the Court constituted of five, whose proper duty it would be to be there; leaving the law Lords to attend or not, as it is now; if they come, well and good.

776. Then if the law Lords should attend at the hearing of any particular case, the tribunal might be as numerous as seven, eight or nine?

So it might.

777. Would you not consider that to be rather a disadvantage?

No, I do not see that it would.

778. Lord *Abinger.*] Do not you think that the despatch of business is rather promoted by fewer than by having many Judges; is not it more difficult to satisfy many minds?

I remember that I once suggested, on being interrupted, that it was better for the counsel to speak and the Judge to hear; it depends a great deal upon the number of questions put by the Judges; if Judges sit and hear without interruption, it is no matter how many there are; you can get on as quickly.

779. Practically, does not it happen the more Judges there are, there is usually the more interruption?

More depends upon the character of the Judges than upon the mere number.

780. Must not it necessarily happen that the whole tribunal, supposing it consists of five or more, must wait till every one of the five is satisfied?

The opinion of the majority would prevail.

781. But does it not sometimes happen, if the tribunal is a numerous one, that the speeches of counsel must go on till every one of the Judges is satisfied, whereas one Judge would express his opinion more easily if he had not to consult four or five others?

There is no doubt of it; but I think it gives greater authority to the decision to have a tribunal, consisting of not too small a number, especially considering that the writs of error come from a large number of Judges. With regard to the law Lords there is some difficulty. Formerly, the Lord Chancellor of Ireland was generally an Englishman, and then he got a Peerage; and then we had an ex-Chancellor sitting always in the House of Lords. The late Lord Redesdale, who was so great a lawyer, sat for a great number of years in the House; so we have Lord St. Leonards now; but it would seem now that that practice is stopping. There is also the Lord Chief Justice; but he, on account of his attendance in Court, can attend very little in the House of Lords; so that the attendance of law Lords is a very casual matter, and may be more so.

782. *Chairman.*] But you have stated that the decisions have in general been satisfactory?

Undoubtedly; the questions have been very ably dealt with; no one of any candour could say that the decisions which are made and reported are not most able and most instructive; but the delay about them, and the uncertainty which I have mentioned, have caused a great deal of dissatisfaction; and there have been some decisions which I have heard carped at. I am far from saying that I agree in all the criticisms made upon them, but they have not possessed that authority generally which you would desire for decisions coming from a superior tribunal. I think that has arisen from the casual attendance of Judges, from the necessity of the case with regard to the numerous duties of the Judges here in England, which make it very difficult to secure their attendance. There was a case very recently, the case of the Bank of Ireland, which was, after all, a matter of mere procedure: the attorney told me, that the expenses of the Bank alone, connected with the writ of error, were about 1,000*l.* in instructing counsel for the hearing, &c.

783. That was in the last Session of Parliament?

It was; it had been hanging over a long time.

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784. Duke of *Somerset.*] I understood you to say that the two complaints from Ireland are on the ground of delay, and on the ground of expense; as regards delay, the only suggestion you have offered is, that a time should be fixed for hearing Irish cases?

Yes; the delay has been very much occasioned by the difficulty of getting the Judges to attend. The law cases require the attendance, generally speaking, of the English Judges, and their duties here are so arduous that it is difficult to find a time convenient when they can attend; and then, when they do attend, their other duties are so numerous and arduous that it is difficult for them to give deliberate attention to the cases.

785. But I understood you to say that that delay applied not only to the law cases, but to the equity cases also?

It applies more to the law cases than to the equity cases.

786. Would there be any advantage if the Appeal Court sat at other times than when the House sits?

I think the Appeal Court ought to sit at all times except the long vacation.

787. That it ought to sit like other Courts of Law?

I think so.

788. With regard to expense, the only suggestion you have made in regard to diminishing the expense is, that the framing of the cases might be dispensed with?

I think the diminution of expense would follow as a consequence upon other arrangements. If you had a tribunal constituted in a proper way, sitting regularly, say from November till August, then the times for hearing the appeals would come on at stated periods, and then parties could send over their counsel from Ireland, to attend, perhaps, along with counsel here. Now, they have to retain counsel long before the time, and refreshers and consultations are going on for years; all that and other expense would be diminished by better arrangements.

789. Lord *Campbell.*] Suppose there were a tribunal which you have recommended, consisting of five Judges, who must be supposed to be consummate masters of their art, and who would devote themselves entirely to the discharge of their duties, in that case would you think it expedient still to summon the Judges, and take their advice for the aid of that tribunal?

The Judges are the advisers of the House of Lords, and I would not at all intimate that the power which the House has of summoning them should be in any respect interfered with; I think the Judges might be summoned, if necessary.

790. Of course the power of summoning them would remain; but, practically speaking, do you think it would be expedient to summon the Judges upon a writ of error to the tribunal, so remodelled as you suggest?

I should say, that if you had a tribunal constituted as I have suggested, the occasion for summoning the Judges would very rarely, if ever, occur at all.

791. Might it not be better not to summon them if there were such a tribunal, because you must suppose that such an instrument would have a string for every branch of the law, and that there would be the means of complete information and advice within the tribunal itself; then, if you summon the Judges, and do not accede to their opinion, would it not have a tendency to shake the weight of the decision to which that tribunal would come?

My own opinion would be, that if you had the tribunal constituted in a proper way, it would be unnecessary to summon the Judges.

792. *Chairman.*] Except, perhaps, in very extreme cases?

There might cases arise in which it would be desirable; but at all events, even then, a few Judges would answer the purpose; probably you could get the Chief Judges from the Courts in any very important and peculiar case; but, generally speaking, I do not think it would be necessary to summon the Judges if you had a properly constituted tribunal of this kind.

The Witness withdraws.

JOHN

JOHN INGLIS, Esquire, Dean of Faculty, is called in, and examined as follows:

John Inglis, Esq.

7th April 1856.

793. *Chairman.*] YOU are Dean of Faculty?
Yes.

794. I think you were Lord Advocate at one time?
Yes, at one time.

795. You have had experience of the practice of the Bar of the House of Lords?
I have, for some years back, a good deal.

796. I suppose confined, or chiefly confined, to cases from Scotland?
Confined to Scotch cases.

797. How far back does your experience extend in the House of Lords?
I think to the year 1849.

798. About six years?
Yes.

799. Beginning at the close of Lord Cottenham's last Chancellorship?
Yes, the last year of Lord Cottenham's Chancellorship.

800. He was very ill during that year, and did not constantly attend?
He heard several cases, I think.

801. Can you state any observations which have occurred to you, as to whether the present tribunal, since you have been familiar with it, has or has not been satisfactory with reference to the hearing and decision of Scotch appeals?
I look at the subject very much from a Scotch point of view, as may naturally be supposed; and we certainly entertain the opinion at the Scotch Bar—an opinion in which I think most people in Scotland participate—that the working of the system has not been satisfactory of late years; the chief cause, I think, is the absence of any means for informing the House as to matters of Scotch law, of which the Members of the House are necessarily ignorant—I mean particularly such matters as are peculiar to the law of Scotland, either in principle or as regards form. I think that the want of that information has tended to diminish very much the authority of the judgments; and the consequence has been that there are judgments of the House, and not very few, which cannot be considered as authorities of the law of Scotland, because it is impossible to reconcile them with known principles and rules.

802. Can you suggest any mode in which it appears to you that that evil could be remedied or mitigated?
In the view of a re-constitution (if I may say so) of the Court of Appeal, the remedy which occurs to me, and which is most generally approved of is, that provision should be made that one of the Judges should be a Scotch lawyer.

803. One out of how many; of how many members do you think the Court of Appeal should consist?
I think the best number for such a Court, after the best consideration I have been able to give the subject, is five. It occurs to me that four Judges, in addition to the Lord Chancellor, would form a most complete and satisfactory Court. Perhaps I may be allowed to add, that I think the greater the variety of legal minds that can possibly be introduced into the composition of such a Court, so much the better. A Court composed of—say one Chancery lawyer in England, one English common lawyer, one Scotch lawyer, and one eminent lawyer from Doctors' Commons, would probably be one of the best Courts that could be devised.

 804. Did

John Inglis, Esq.

7th April 1856.

804. Did it ever occur to you to consider whether the decisions of such a Court upon Scotch law would not, in Scotland, be considered as the decisions of the Scotch lawyer?

I of course have thought of that objection, but I do not think it well-founded. I believe that if such a Court were occupied entirely with the decision of cases upon appeal, the number of appeals which come from Scotland would make it matter of necessity that all the Judges should devote their attention to those cases, otherwise it would amount to a neglect of duty on their part.

805. What I wish to have your opinion upon is, not whether in point of fact the decision would be the decision of that Judge, but whether the opinion in Scotland would not be that the tribunal had deferred, upon the Scotch question, to that one individual?

No, I do not at all expect that.

806. When you say that it would be necessary that the other Judges should devote themselves to considering the case, is not that the case now?

True; but they would then do it with the assistance of a Scotch lawyer, which would prevent those frequent and disastrous errors which have occurred in times past.

807. When you say "frequent and disastrous errors," can you point out any particular cases to which you refer?

Yes, I can give your Lordships examples: there are cases, in which the House have gone so entirely against the principles of the Scotch law as to render the judgments really of no authority at all. I give as an example of that, the case of Galbraith *v.* Armour, in which the House of Lords held that the soil of a highway remains in the original proprietor of the ground. That was clearly bad Scotch law; and the case has been entirely disregarded. Lord Cottenham, the Lord Chancellor at the time, was against the judgment; but it was carried by a majority of two to one. I should mention, as another example of the same thing, the case of Graham *v.* The Magistrates of Montrose, in which Lord Wynford held, reversing the judgment of the Court below, that where there had been one general service to a person deceased, another general service could not be expede; which, if it had been followed, would have disturbed our system of conveyancing in Scotland. I may mention also a very recent case, in which, though the judgment was right, the grounds of the judgment were essentially wrong; I mean the case of The Dundee Harbour Trustees *v.* Dougal; in which the noble and learned Lord who moved the judgment, speaking of the Scotch Act concerning prescription, the Act of 1617, said that it was the simplest Act that was ever passed; that it was a statute which he who runs can read; and that as to the distinction between negative and positive prescription it was a mere difference in words. Now I can only say with regard to that ground of judgment, that I do not think we should have been much more surprised in Scotland if we had been told that land descends to the female in preference to the male; because that Act of 1617 has received a great deal of judicial construction; and I believe there is no system more complete in itself, and no one now better understood than the Scotch law of prescription. But, unfortunately, the noble Lord who decided that case did not understand it. Then I should say that there are quite as great errors, and perhaps quite as great inconveniences in matters of form. Very lately, I think I am right in saying within two years, there have occurred two cases which were very strong examples of this. One was the Aberdeen Railway Company *v.* Blackie, which your Lordships may recollect; and the other was the case of the Leith Dock Commissioners *v.* The Inspector of the Poor of North Leith; in both of which I am prepared to say that the judgment was sound; I have nothing to object to it; but the judgment was put in such an improper form in both cases, that it was impossible to apply it.

808. You say that the cases of the Aberdeen Railway Company *v.* Blackie, and of the Leith Dock Commissioners *v.* The Inspector of the Poor of North Leith, were in your opinion correctly decided, but that they were drawn up in a mode which was inapplicable. Can you suggest any mode in which that evil might

might be remedied, so that the House, in coming to a correct conclusion as to what the decision ought to be, should have greater facility in drawing it up in a mode that the parties can deal with?

I have not thought of that apart from the general suggestion which I have made, as to the presence of a Scotch lawyer in the Court of Appeal. Of course that would be an equally good security against such mistakes in point of form as against mistakes in principle.

809. But if that were the only thing to be guarded against, it would hardly seem necessary that there should be a total alteration in the constitution of the tribunal merely to secure the accurately putting into form of that which has been correctly decided?

Probably not; I refer to it only in the first place as a great existing evil, and in the second place as a very distinct sign of the total want of requisite knowledge on the part of the tribunal.

810. Earl of *Carnarvon.*] Do you think that the presence of a Scotch lawyer here as a member of this Appellate Tribunal would have any effect either in diminishing or in increasing the number of appeals from Scotland?

If it had the effect of improving the judgments, and of making them more in accordance with the Scotch law, it would most certainly diminish the number of appeals; and I will state my reason for that, which I can give from my own experience: I have had occasion, not merely for the six years which I have already mentioned, but during a pretty long professional life, having been more than 20 years at the Bar, to advise upon a very great number of appeals in cases in which the defeated litigants in the Court below came to counsel to advise them as to whether they should appeal or no; and it is sufficient for me to say, that the main question at consultation is not whether the judgment is sound, but what is likely to become of it in the hands of English lawyers.

811. Earl of *Derby.*] Have you, in arguing a case in the House of Lords, frequently found it necessary to lengthen your argument for the purpose of demonstrating and proving that which before a Scotch Court of Law would have been assumed as an axiom perfectly well understood?

Very frequently.

812. Have you found it necessary to explain to the Court the meaning of terms in the Scotch law?

Yes; I find very often that terms, which, in my own ignorance of the English system I suppose might be understood and familiar to English lawyers, are quite unintelligible; and I fear very often that terms are used which are not intelligible to noble and learned Lords, and an explanation of which is not asked unfortunately, and, in consequence, a good deal of misunderstanding occurs.

813. *Chairman.*] Might not that happen equally if one of the five members of the Court of Appeal was a Scotch lawyer; would not still those terms need to be explained to the other four?

I think not, because in the deliberations of the Court, which would take place before the judgment was given, opportunity would be afforded to the Scotch member of the Court to remove any such misunderstanding and difficulties.

814. Lord *Abinger.*] Does it occur to you that the Scotch lawyer in the Court of Appeal would have the same difficulty with respect to English cases?

I should wish to speak with all possible diffidence upon that subject; but if I am at all right in the theory I have formed of the perfection of a Court of Appeal, I should say, considering the education and professional studies of the Scotch Bar, that the Scotch lawyer dealing with English cases would improve both the Scotch lawyer and the English law.

815. Earl of *Derby.*] When you speak of a Scotch lawyer as a member of the Court of Appeal, I presume you do not mean a practising barrister?

I think that judicial experience would be a very important element for consideration in selecting a lawyer for the office.

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816. Do you mean judicial experience during the time of sitting upon the Bench, or after removing from the Bench; would you propose that one of the Judges actually upon the Scotch Bench should attend the House of Lords, or that he should, previously to his coming into the Court of Appeal, have altogether ceased to discharge the duties of a Judge in Scotland?

My desire would be, undoubtedly, that the member of the Court of Appeal should be nothing else; I do not think that the system of bringing up a Judge for the purpose of sitting occasionally in the Courts of Appeal, and leaving him also to sit in the Court below, would be attended with good results at all; I have many reasons for that, if your Lordships desire to know them.

817. *Chairman.*] Will you state them?

In the first place, I think that we cannot spare a Judge from our Courts; there are just as few Judges as can overtake the work which they have to do; and, in the second place, I think that the continuance of the connexion between the Judge who is to sit in the Court of Appeal and the other Judges in Scotland would, if it were not attended with any serious evil in itself, at all events be likely to create a great deal of jealousy in the mind of the public and of the profession: I do not say that it would not be productive of real evil; but at all events there would be a great deal of public jealousy.

818. Viscount *Gordon.*] I believe that the opinion which you have expressed about the necessity of a Scotch Judge in the Court of Appeal, is that of the Faculty of Advocates?

It is. The Faculty of Advocates recently had that subject under their consideration, and they came to a resolution, of which, perhaps, I may be permitted to lay a copy before your Lordships' Committee.

819. Will you have the goodness to read it?

The same is read, as follows:

That whilst acknowledging the many benefits derived in times past to the law of Scotland from the intervention, in the Court of Appeal, of the distinguished English lawyers who have advised the House of Lords in giving judgments in Scottish cases, and whilst anxious that these benefits should be retained, the Faculty are of opinion that in any changes which may be in contemplation with a view to improve the arrangements for disposing of appeals in the House of Lords, it is highly expedient that provision should be made for securing the presence in the House of an eminent Scottish lawyer to assist in the hearing of appeals, and that a Committee be appointed to take what steps may appear to them proper for promoting the object in view.

820. Has that always been the opinion of the Faculty of Advocates, or is it an opinion which they have only recently adopted?

The subject was also under the consideration of the Faculty of Advocates in the year 1851; a recommendation was made at that time to the Government, Lord John Russell's Government, upon the subject, but it was not attended with any result; at that time the Faculty came to a resolution, which I also have here, following upon the report of a committee of which I was myself the convener; the resolution was, "That the report of the committee be approved of, and that the Dean of Faculty and the convener of the committee be requested to proceed to London, in order to take such steps in reference to the Bill now pending in the House of Lords as may seem to them best calculated to follow out the recommendations of the report." That was a Bill in which provision was made for summoning the Equity Judges to the House of Lords, as well as the Common Law Judges of England; and the recommendation of the committee, which was approved of by the Faculty, was, in substance, the same as what is contained in the resolution I have just read.

821. Earl of *Derby.*] Has a similar resolution, or a resolution to the same effect, been recently passed, to your knowledge, by the Writers to the Signet?

Yes; I have a copy of the resolutions in my hand, which was forwarded to me by the Deputy Keeper to the Signet, which I will hand in.

The same is delivered in, and read, as follows:

At a Meeting of the Society of Writers to Her Majesty's Signet, held on the 1st of April 1856, the following Resolutions were unanimously approved of, and the Deputy Keeper was requested to send printed copies thereof to the Lord Chancellor, and the other Peers who form the Committee lately appointed to inquire into the Appellate Jurisdiction of the House of Lords.

APPELLATE JURISDICTION.

The Society of Writers to the Signet, being aware that the House of Lords have at present under consideration the whole matters relating to the Appellate Jurisdiction, and being also aware of the existence of a general feeling, that improvements might be engrafted on the regulations under which appeals are now heard, would, under these circumstances, respectfully state the opinions indicated in the following Resolutions:

1. That this Society fully recognizes the great benefits which have resulted to the law of Scotland, from the exercise of the Appellate Jurisdiction of the House of Lords; and would deprecate any alteration by which its judicial functions would be vested in any other body.

2. That in the determination of appeals from the Scotch Courts, it is of great importance to maintain the benefit derived from the application of the English judicial mind, and also to obtain the assistance of an eminent lawyer, thoroughly acquainted with the whole range of Scotch law and practice.

3. That in carrying out this object, the Scotch lawyer who would be associated with the Appellate Judges ought to have a vote in the House of Lords in the decision of every appeal.

4. That by a resolution of the House of Lords or otherwise, it should be directed that all appeals from the Scotch Courts are to be heard by not less than three law Lords of the House, of whom the Lord Chancellor and the party previously indicated would form two.

5. That it is not expedient that such assistance should be afforded under any plan of summoning one or more of the Scotch Judges to assist the House; and that in the opinion of this Society, if any Scotch lawyer is to assist in deciding appeals in the House of Lords, it is necessary that he should be entirely dissevered from the Scotch Courts.

6. That while, generally, great benefit would be derived from selecting a lawyer who in the previous exercise of his judicial functions had shown peculiar fitness for filling the high position referred to, the Society could not propose that the Crown should thus limit its choice; but they would express an earnest hope that the selection should not be held as, in any view, a political appointment.

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822. Lord *Campbell.*] Were those resolutions adopted by both those bodies unanimously?

There was one dissentient voice in the Faculty.

823. Earl *Stanhope.*] Is it not the fact, however, that public opinion in Scotland appears to have been adverse to this measure; are you aware of the evidence that we have received upon this point from the Solicitor-general, who states, that having suggested this idea, he "received, during the vacation, numerous letters from Scotland, and numerous extracts from newspapers in Scotland, all of which appeared to be one way, namely, opposed to the carrying out of any such notion?"

If it had not been that I had been informed that some such statement had been made, I should have heard it now with very great surprise indeed, because I am satisfied that that is an incorrect representation.

824. You do not think that the public opinion in Scotland, exclusively of the legal profession, would be adverse to the proposed change?

I am satisfied that it is favourable to the change.

825. *Chairman.*] By "public opinion," you mean the opinion of litigant parties, of the suitors as well as of the profession?

I may say of the suitors chiefly, but, at all events, only educated, intelligent public opinion; I do not speak of the feelings of the masses.

826. The opinion of the clients, and not of the lawyers?

Yes.

827. *Lord Privy Seal.*] What opportunity have you had of testing the public opinion upon the subject?

In consultations I have frequently heard such opinions expressed by persons, who have causes, some of them important, and numerous causes in the Courts.

828. Has the question been discussed much in the public journals?

Not a great deal; but any discussion I have seen in the public journals upon the subject lately has been all on one side; I have seen none upon the other side.

829. Was it mentioned as one of the grievances of Scotland in the late agitation upon that subject?

No.

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830. Viscount *Gordon.*] You are of opinion that it is desirable to retain the right of appeal in the House of Lords from Scotland?
I am.

831. You understand that when a Scotch appeal comes to the House of Lords, it is exclusively the law of Scotland that is administered?
Yes.

832. Do you see any advantage in the Judges of Appeal being comparatively ignorant of the law they administer?
I think it would be of very great advantage to the law of Scotland, as well as the law of every other part of the kingdom, if there was a great variety of legal minds brought together in the Court of Appeal, and if the Judges of the Court of Appeal were men who had studied the great principles of jurisprudence under different systems.

833. Lord *Campbell.*] Would you give a legislative power to the Court of Appeal; is not the Court of Appeal to give the judgment that the Court below ought to have given?
I certainly would not give a legislative power to the Court of Appeal; I do not think that the Court I am supposing would be so apt to deal in a legislative spirit with the cases that came before it as the House of Lords has hitherto been.

834. Viscount *Gordon.*] Is it not a subject of observation and complaint in Scotland, that the House of Lords has dealt with Scotch cases not exclusively in a Scotch view, but by applying to them English law?
Yes, that has been a subject of very great complaint.

835. Lord *Campbell.*] But if so, has not that been contrary to the professions of that tribunal, because they have always professed to be guided exclusively by Scotch law?
Yes; but even in a much earlier time than I have been speaking of, changes have been introduced into the law of Scotland, I do not say whether good or bad, but the result is, certainly, that changes have been introduced into the law by judgments of the House of Lords; there are many well-known cases of that kind. In one branch of the law which has been very much systematised by the House of Lords, I mean the entail law, a great many rules have been introduced that were quite against the previously settled law of Scotland.

836. Lord Mansfield began that?
Yes, in the Duntreath case; it was there held, contrary to previous cases, that an institute of entail was not an heir of entail.

837. Did not the whole Bar in Scotland, in a very short time, approve of that decision?
We thought it an excellent change in the law. In the Queensberry cases, it was found that leases of a certain duration were alienations of the estate, contrary to previous cases. In the Ascog case, it was found that where, from a defect in the prohibition against sales, an entailed estate had been brought to sale by the heir in possession, the substitute of entail could not compel him to re-invest the money; but according to the law of Scotland previously, he could. And I may say, generally, with regard to the entail law, that undoubtedly the principle of strict construction, which has grown up in the House of Lords, till it reached its culminating point in the case of Lang, was originally quite strange to the law of Scotland. I am not sure that those judgments may not have effected very important and very beneficial changes in the law; but I say that it ought to have been done by legislation, not by judgment.

838. Earl of *Derby.*] What you mean to say is, that they have effected changes,—that they are not judgments according to the previous law,—but that they are judgments that have altered the law?
Yes.

839. *Lord Privy Seal.*] Did I rightly understand you to say that it was by reason of adopting a stricter interpretation of the law of entail than had been given by the Scotch Courts?
No: I mean to say that the strict interpretation of the fetters of entails which now prevails was not known in the law of Scotland originally, but was introduced

introduced entirely by the judgments of this House. Formerly we construed the fetters of an entail very much as we should construe another deed, because as the Act of the Scotch Parliament of 1685 permitted entails to be made, and rather encouraged them, there seemed no reason in principle for adopting an unfavourable construction of that which was permitted and encouraged by Act of Parliament; but the House of Lords, upon the principle that the law is always in favour of liberty (for that was the ground taken) applied to the fetters of entail the strictest of all constructions.

840. But still it was within the rules of construction?
It was not within any rule of construction that we knew previously.

841. Viscount *Gordon.*] But notwithstanding those changes which have been thus made in the law of Scotland by those judgments, you still would desire to come to the House of Lords for relief in cases of appeal?
I should.

842. Do you imagine it to be impossible to construct such a Court of Review in Scotland as would settle the law, without coming to the House of Lords?
I am afraid it would be impossible to form anything that could give satisfaction.

843. Does the present system, leading to the decisions which you have described, give satisfaction?
No; I have already expressed an opposite opinion.

844. Duke of *Somerset.*] You say that you think it would be impossible to create a tribunal in Scotland that would be satisfactory as an Appellate Tribunal?
I fear it.

845. You think it is more satisfactory to have a tribunal in London constituted of lawyers who are unacquainted with Scotch law?
I do not say that; but I feel certain that a tribunal constituted as I am now proposing would give satisfaction; and I fear that such a tribunal as is suggested in Scotland would not.

846. In Scotland if an Appellate Tribunal was created there, there would be a certainty of a knowledge of the Scotch law?
Yes.

847. And in Scotland, if such a tribunal was created there, there might be less delay?
There might.

848. And in Scotland, if such a tribunal was created, there might be less expense, might there not?
I think the expense of appeal here might be diminished very much.

849. Would it not be naturally less expense to go to a tribunal in Scotland than to bring the appeal to London?
It would.

850. Earl *Stanhope.*] What would be the practical effect upon the Scotch law if the right of appeal were somewhat diminished?
It depends upon the way in which it is done.

851. Does any way occur to you in which there might be any advantage in the limitation of the right of appeal?
If the principle of restriction were to be to permit no appeal where the subject in dispute was not of a certain value or amount, I should be very much afraid of the effect of that; because a different law might come to prevail in great cases and in small.

852. Earl *Grey.*] But you have said that you thought that, practically, the number of appeals would be diminished by constituting a good tribunal, which would settle satisfactorily the points of law, and make an appeal less a lottery than it is at present?
Yes, of that I feel certain.

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853. Earl *Stanhope.*] And that, you think, would be a sufficient limit to the number of appeals?

I think it would.

854. Earl of *Carnarvon.*] I understand you to say, that even though there may be something unsatisfactory at present in the forms of the House, and in the present tribunal as at present constituted, it would, in your opinion, be much more unsatisfactory generally to Scotland if the appellate power were transferred to another tribunal?

Certainly. I should be anxious to express myself with regard to that as strongly as possible, because I am quite certain that, although there are evils in the present system, and although there exists a great deal of dissatisfaction with regard to the present constitution and working of the system, if there were a new Court constituted, composed entirely of English lawyers, the dissatisfaction would be greatly increased, and the existing evils would be multiplied tenfold.

855. Viscount *Gordon.*] Would it not be contrary to the Act of Union?

I think it would.

856. Lord *Sundridge.*] What do you mean by a Court of Appeal?

I mean either within the House or without the House. Perhaps I may be allowed to explain: I think that there has been at various times a strong impression upon the public mind that the system of appeal to the House of Lords has worked well. There can be no doubt that at certain times it has, upon the whole, worked very well; but I think that the impression of the system working well has reference entirely to certain particular eras; I mean those periods when the hearing and determination of Scotch appeals was entirely in the hands of the Lord Chancellor, and such a Lord Chancellor as Lord Hardwicke, or Lord Loughborough, or Lord Eldon; because in the case of Lord Loughborough, he was a thoroughly educated Scotch lawyer; and in the case both of Lord Hardwicke and Lord Eldon, they made themselves Scotch lawyers by most laborious study.

857. *Lord Privy Seal.*] And great length of service?

And great length of service.

858. Lord *Campbell.*] And considerable practice at the Bar in appeal cases?

And considerable practice at the Bar in appeal cases; and the same observations of course apply to Lord Mansfield. Although he was not Lord Chancellor, yet, during two Chancellorships, he was practically the sole Judge upon Scotch cases. Now, if you have a Court composed of three, four or five English lawyers, and thus divide the responsibility, you cannot expect them to pursue their studies in the way that those great men did; and the consequence would be, that we should have the law of Scotland converted and assimilated to the law of England by a gradual process, so that we should really not know in Scotland under what law we were living. I confess my own opinion is, that if such were to be the result of this inquiry, I would rather at once see an Act of Parliament abolishing the law of Scotland; I think we should be better off.

859. *Chairman.*] Have you any suggestion to make as to the possibility of diminishing the expense, supposing the present system to be continued?

I think the changes which I have already suggested would conduce very much to that result. In the first place, if you have a Court regularly sitting, and pretty constantly, throughout the year, there would not be the same risk of delays, and of the postponement of cases, which is one great source of expense at present. And you would avoid another evil, which is felt probably to be as great a hardship as any connected with the existing system, the chance of remits for re-hearing. I should wish to mention one case as an illustration of that, I mean the case of the Edinburgh and Glasgow Railway *v.* The Town of Linlithgow, which related to a grant of what are known in Scotland as burgh customs by the Crown in favour of the burgh. It was a species of grant quite unknown to the law of England; and when the case came here, the noble and learned Lords were extremely puzzled, and they remitted it for re-hearing, expressing, at the same time, a pretty strong opinion against the judgment,

judgment, upon the ground that this burgh custom, which was charged upon goods passing through the town by railway, was, in truth, a grant of a toll without consideration; and the suggestion they made to the Judges in Scotland was, to consider whether it was not without consideration, and also whether it was not a toll thorough. Now, the Judges in Scotland were of opinion that it was not a toll at all; and as to the term "toll thorough," they never heard of it before, and they did not know what it meant.

860. Lord *Campbell.*] Was the question put in those words, that they were to consider whether it was a "toll thorough"?

No, it was not; I do not mean to represent that; but the opinions which were given by the noble and learned Lords were to that effect, and of course they were suggestions or instructions to the Court below as to what they were to consider; but I was going to ask your Lordships' attention to the history of that case as regards dates, in illustration of the question as to expense; it was decided in the Court of Session in July 1845; it was heard in the House of Lords in March and April 1847, and was remitted for re-hearing upon the grounds I have mentioned; it was heard before the Court of Session again in the year 1849, and it was re-heard in the House of Lords in the year 1850, when I had the honour of arguing it; and it remains undecided to this day.

861. *Chairman.*] Has not the case abated; are not some of the parties dead?

The parties cannot be dead, for they are both corporations.

862. Earl of *Derby.*] What I understand you to say with reference to the causes of that delay is, that if there had been in the first instance a Scotch lawyer upon the Court of Appellate Jurisdiction, there would in all probability have been no remit upon the grounds which you have stated?

I have no doubt of that at all, because I am quite sure that if the House had received information upon which they were entitled to rely, not such information as you get from the Bar, but information upon which they were entitled to rely, that burgh customs were not tolls by the law of Scotland at all, but something quite different, the remit would never have taken place.

863. And in that event that case would have been disposed of in the year 1847, which is now open in the year 1856?

Just so. I may perhaps be allowed to mention another recent case in illustration of what I am sure I may be allowed to call the necessary ignorance of noble and learned Lords of the rules of Scotch law, I mean the case of Melrose *v.* Hastie, which was brought here by appeal two years ago. A question was there raised as to a seller's right of retention, it being held in Scotland that a seller of goods undelivered is entitled to retain those goods against the purchaser, or even against a sub-purchaser, not merely for the price of the undelivered goods, but for any general balance due by the purchaser. The House were very much startled by that doctrine, there being no such right in the law of England; and although it was impossible to reach the question in consequence of the form of the appeal, the noble and learned Lords who heard the case threw out very strong opinions that that could not by possibility be good law: that again was a little startling to us in Scotland, because we had been accustomed to look upon it as being a settled point. Since that time the Mercantile Law Commissioners, who have reported upon various points of difference in which they think that the laws of Scotland and England should be assimilated, have reported that that is the law of Scotland, and the Lord Chancellor has brought in a Bill to alter the law of Scotland in that respect.

864. *Chairman.*] Do you mean to say, that in the case of Melrose *v.* Hastie, the decision went upon the notion that there was no such law in Scotland?

No; I say the decision did not go upon it; because in consequence of the form of the appeal it was impossible to reach the question.

865. On what ground do you come to the conclusion that the Lords who heard that case thought that that could not be the law of Scotland?

Because I heard that opinion expressed in the course of the argument.

866. Do you mean that they said, that it could not be the law, or that it ought not to be the law?

That it could not be the law.

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867. Earl of *Derby*.] Apart from the constitution of the Court, have you any suggestion to offer with regard to the course of proceeding with a view to diminishing expense or delay?

I think that if the Court were constituted as I have suggested, the printed cases might very well be dispensed with, which are a source of great expense.

868. Lord *Abinger*.] It has been suggested in the evidence here, that questions of fact need not come up from Scotland to be determined by the House of Lords; could any mode be adopted by which that could be obviated?

That has been, to a certain degree, secured already; very few questions of fact have come to the House of Lords since the Act of the 6th of George the Fourth; of course in all cases that go to juries, the fact is finally fixed by the verdict; but even in those cases which do not go to a jury, I think the provisions of the Act of the 6th of George the Fourth sufficiently secure that there shall be no mere question of fact brought to the House of Lords.

869. But the law comes mixed with the fact, does not it?

No; I should not think there is any evil of that kind to complain of.

870. Could any proceeding be adopted by the Scotch Courts, with advantage, resembling that known in England by the name of a special case?

We generally find that a special verdict is a better form of proceeding.

871. A special case is the result of a special verdict; the facts are stated in the case either as found by the jury, or as settled by counsel. By a late Act, there may be a special case without any verdict of a jury, but usually it goes upon the verdict of a jury; then the facts are stated by the counsel, and settled by the Judge, if necessary, and in that state they are submitted to the Court for the decision of the law; have you any proceeding similar to that in Scotland?

We have such a form of process in Scotland, but it is not much resorted to.

872. Would there be any difficulty in Scotland in getting counsel to agree upon the facts?

Our forms of pleading very often bring cases into such a position that it is not necessary to go beyond the mere record; because, by the form of condescendence and answer, the parties are often brought to admit so much upon either side as is sufficient for the decision of the case.

873. *Chairman*.] The result of your consideration of the subject is, that the best and most appropriate remedy would be to continue the jurisdiction, as it is now, in the House of Lords, except that there should be a certain tribunal of not less than five, and one of them to be a Scotch lawyer?

Yes.

874. Earl of *Derby*.] Do you believe that to be the general opinion of the profession to which you belong?

I think the opinion, both of the profession and of the litigants, is very nearly what I have now expressed.

875. Lord *Sundridge*.] You speak on behalf of the public as well as on behalf of the profession?

Yes, as far as the suitors are concerned.

876. You do not think that there is any difference of opinion between the Edinburgh part of the profession and the provincial?

I have had various communications from Glasgow upon the subject; the legal profession in Glasgow I do not think are unanimous about the matter; but, as far as I have been able to judge, the general preponderance of opinion is in favour of what I have been suggesting; I can speak of many legal practitioners in Glasgow from personal communication with them, and I can also speak of a great many of their clients, merchants, manufacturers, iron-masters, and the like, with whom I have had personal contact frequently.

877. Earl *Grey*.] I think you said that at the time when the appeal jurisdiction exercised by this House gave the most satisfaction in Scotland, it was practically exercised by a single lawyer?

Yes.

878. You

878. You said that at that time there was an advantage in the absence of any division of responsibility, and you thought that the judgments then given were upon the whole satisfactory in Scotland?
Yes.

879. You have also pointed out great inconveniences which have arisen from the want of information with regard to Scotch law on the part of English lawyers sitting in appeal here; would it not appear to follow from those two opinions that it would be better that Scotch appeals should be decided by a single Judge possessing a thorough knowledge of Scotch law?
I do not think that a single Judge makes a good Court of Appeal; I do not think that any such Court would be likely to give by any means the same satisfaction as that which I have suggested.

880. Lord *Sundridge.*] You think that the contact with English legal minds is useful in the Appellate Jurisdiction?
Yes.

881. *Lord Privy Seal.*] I understood you to say that those changes which you have pointed out as taking place in the law of Scotland by the judgments of the House of Lords took place during the Presidency of those very noble Lords whom you have specified as having given great satisfaction in Scotland?
Some of them in the time of Lord Eldon; some of them in the time of Lord Mansfield.

882. Then those changes in what may be called the legislation of Scotland were produced under the circumstances of the Appellate Jurisdiction most approved of by the public feeling of Scotland?
I think the changes were, upon the whole, beneficial, but they were changes which ought to have been effected by legislation.

883. *Chairman.*] Are you aware of the circumstance that the same thing has been said of Lord Mansfield with reference to his administration of the English law?
Yes, I am quite aware of that; but I may be permitted to say, that Lord Mansfield there was very much making a system of commercial law, which is the creature of custom; in the other case he was dealing with an existing and matured law of real property.

884. Earl of *Derby.*] Have you turned your attention to the comparative advantages or disadvantages of the delivery of the judgment of the Court of Appeal as the judgment of the whole Court, as compared with the delivery of separate judgments by the different members?
I have not considered that specially with reference to the Court of Appeal: but with reference to Courts generally, I have frequently considered the subject; and my opinion is in favour of each Judge delivering his own opinion, not in every case, but in cases of importance.

885. Lord *Campbell.*] Supposing the Judges of the Court of Appeal are divided, ought the dissentient Judges to express an opinion?
I think so; I think it would be most desirable that in that case the dissent should be expressed; because if it were not, the suitors would suspect that there was a dissent in every case; they would always suspect the existence of a division of opinion.

886. *Chairman.*] Is not that a matter of little importance in the case of a Court of ultimate appeal. In the Court below, it is very important for the suitors to know what the reasons were, and what was the preponderance of opinion in it, in order to guide the defeated party as to whether he shall or shall not appeal; but of what use can that be to the suitor in the Court of Appeal when he is finally concluded?
It is not of so much use to the individual suitors as to the law. The delivered judgments of such eminent men as ought to sit in the Court of Appeal are of very great advantage to the law.

887. Earl of *Derby.*] That of course is the advantage to be derived from the delivery of separate judgments. Is not there corresponding disadvantage

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arising from the comparative uncertainty in which the law is left, where there may appear to be a great diversity of opinion in the highest tribunal?
There is such a disadvantage, undoubtedly.

888. On which side would your judgment lead you to consider that the advantage preponderates with regard to the Court of ultimate appeal?
I have not considered it very maturely with regard to a Court of Appeal, but my opinion would lean certainly to the delivery of judgments, by both the majority and the minority.

889. *Lord Privy Seal.*] Would you have the judgment delivered always in writing?
I think that may fairly be left to the discretion of the Judge.

890. You would have any difference of opinion expressed with the greatest amount of gravity and consideration possible?
Certainly.

891. Lord *Campbell.*] Would you consider it a good rule of practice, that where the Judges of the Court of Appeal differ, they should express their opinions in writing?
I think that when they differed that would be very desirable.

892. Earl of *Derby.*] You referred, in the early part of your evidence, to some resolutions which had been come to by the Writers to the Signet. Are they a body in Scotland who, from their position and experience, are well qualified to express an opinion, both upon their own part and upon the part of the country at large?
Certainly. They are a body of the greatest consideration. They not merely conduct business as solicitors, but they also do the conveyancing business of Scotland, and therefore occupy a very responsible position indeed.

893. Earl *Stanhope.*] What is about the number of that body?
About 500 in all: about 300 in practice.

894. Are the resolutions that have been laid before us from the practising Writers to the Signet, or from the body at large?
They are resolutions adopted at a meeting of the body, at which, of course, any person may be present who is a member of the body; but practically, I believe these meetings are attended chiefly by writers who are in practice.

895. *Lord Privy Seal.*] Do you happen to know what number were present upon this occasion?
I do not.

896. Lord *Campbell.*] There was previous notice given that such resolutions would be moved?
I have no doubt there would.

897. Earl of *Derby.*] What was the number present at the meeting of the Advocates, at which the resolution you have read was agreed to?
Somewhere under 100, I should think—80, 90 or 100.

898. Comprising many leading members of the Scotch Bar?
Almost the whole. It was a subject, also, of very frequent conversation previously to the meeting.

899. Earl of *Carnarvon.*] In the event of any change, either in the working or in the constitution of this tribunal, such as you have described, are you of opinion that it would be advisable to protract the legal session of the tribunal itself?
I should think it would; and it would be of the greatest possible consequence that the sittings of the tribunal of appeal should not be liable to interruption, as they are at present, by a great variety of accidents.

900. I meant to ask more particularly whether you would think it desirable to protract the legal Session beyond the legislative Session?
Certainly: I should be desirous that the Court of Appeal should sit as constantly

stantly as any of the ordinary Courts in the kingdom, if necessary; it would depend of course upon the amount of business that they had to do.

901. *Chairman.*] Probably a reasonable rule might be, that if the business before the Court cannot be heard before the end of the Session, then it should be provided for by a supplementary Session afterwards?
That would be quite satisfactory.

The Witness is directed to withdraw.

ROBERT MALCOLM KERR, Esquire, is called in, and examined as follows:

902. *Chairman.*] YOU are a Scotch Advocate?
I am.

903. Of what standing?
I was called in 1843.

904. And an English Barrister?
Yes, called in 1848.

905. Have you had any experience yourself of the Appellate Tribunal of the House of Lords?
A very limited personal experience; but I have watched the working of the Court since the decision of the case of Gibson *v.* Rutherglen, fifteen years ago, the earliest case in which I was professionally interested; I have frequently attended the hearing of causes, and I have noted up every decision of the House of Lords for a great many years; that is indeed a necessary part of my professional occupation.

906. From your experience, which you say is but small, are you able to state, from either your own observation, or from what you have heard from others, how far the decisions have or have not been satisfactory to the public in Scotland?
I would not presume to consider my own opinion upon the working of the Appellate Jurisdiction as entitled to any weight: I may say, that I have for it unlimited and unbounded admiration; but I have been in communication with a great many people in Scotland. I go to Scotland once or twice a year; and the subject has frequently formed a topic of discussion with various parties. My experience of the opinion of the people of Scotland is, that they have in the Appellate Jurisdiction as presently constituted, an unbounded confidence, and that they have for the Law Lords a very great admiration indeed. I ought, perhaps, to state, as one reason which may contribute to that unbounded confidence, a fact, which may not be altogether familiar to most of your Lordships, viz.: that for a very long period there was among the people of Scotland not only that kind of dislike which the lawyers often labour under; but a kind of distrust (a feeling, which is utterly unknown in England, at least since the Revolution), a disposition to question whether the judgments of the Courts in Scotland were always what they ought to have been, or whether there was not some influence at work which affected the judgment; but I should say that for the last 20 years that feeling has gradually disappeared from the minds of the public of Scotland; and the Court of Session and Sheriff Courts are now considered as pure in their judgments as the Courts in England.

907. While that feeling existed, which you say existed up to within 20 years ago, there might be very good reason for having confidence in the tribunal of the House of Lords, independently of the wisdom or propriety of its decisions, because there would be a confidence that it would not be influenced by any sinister motive; but is there the same confidence, according to what you have heard or collected from others, since that feeling has ceased to exist?
Certainly, not only the same confidence, but even greater. The persons with whom I have conversed in discussing this question have given as the

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reasons of their confidence in the House of Lords, that the decisions are the decisions of judges of the first talent and the highest position; and that when you come up to the House of Peers, you have there an entire absence of any local knowledge or local prejudice of any kind, and a tribunal which is entirely removed from even the information to be gathered from newspapers, or in society, upon causes which come before the Courts.

908. Lord *Sundridge.*] Do you consider local knowledge as synonymous with local prejudices?

It has been so a good deal in Scotland. I heard it stated in Scotland recently that it was proposed to bring up a local Judge as a member of the Court of Appeal. I had several communications with Scotch friends upon that subject, and I have found that proposal strongly objected to. Something has been said in the Committee about articles in the newspapers which have been sent to the Solicitor-general for England. Ever since the question was first started, those in the habit of seeing Scotch newspapers must have observed that they have nearly all taken the same tone, that is to say, they have all objected to the taking up of a Scotch Judge. Ten days ago the Dundee Advertiser had a strong article upon the subject, and in an Edinburgh paper I last week accidentally took up, the first article I saw was one in the same strain.

909. Earl *Grey.*] You are speaking now of taking up a Scotch Judge to sit in the Court of Appeal, he still remaining a Scotch Judge?

Yes.

910. *Lord Privy Seal.*] Not one who, having been a Judge, should have ceased to have any connection with the Scotch Bench?

No; the newspaper articles to which I refer do not suppose that case.

911. But you see that they are two distinct questions?

They are; but still the people of Scotland do not, I think, desire to see in the Court of Appeal, even a Scotch Judge, who has ceased to exercise judicial functions in Scotland. If your Lordships will allow me I will read a note, which I think is a very fair index of the feelings of many of the legal profession in Edinburgh; it is from a gentleman who has had several appeals within the last two or three years, and who has a considerable practice. "As I stated to you when here, I have in the course of my practice as a solicitor before the Supreme Court of Scotland had various appeals to the Court of last resort; I have personally attended the hearing of some of them, as well as of others which were proceeding while I was hanging on for them, and the impression which I have borne away has always been that of satisfaction with the manner in which the law Lords applied themselves to the consideration of the cases before them, joined to an observation of the readiness with which they took up questions of Scotch law, and a conviction of the sound reasoning by which they arrived at their conclusions. This is a feeling I think prevalent in the profession here, as I have heard it remarked more than once by other agents, although I cannot charge my recollection by whom. The judgments of the House of Lords, in short, give general satisfaction; this is no doubt attributable to the eminent ability of the law Lords; but it is not a little assisted, I think, by the deliberateness and ability with which the cases are argued; by the removal from the disturbing effect of local views and prejudices, and by the absence of the unhinging annoyance to which our Judges are exposed of routine business of a petty nature. The appointment of a law Lord from the Scotch Bench or Bar would no doubt be a prize which might have its indirect benefits, and I should be very glad that there should be something or another which might lure talent to our Bar; but so far as I can presume to judge, such an appointment does not appear to be called for on other grounds; and the fear I would have were it made would be, lest the consideration of Scotch appeals should be devolved exclusively upon the person so appointed, by which we would gain nothing. So well satisfied are we with the present constitution of the tribunal, that there would be very many more appeals were it not for the serious expense, and for the rule of not allowing the appellant his costs when successful," and so on. I have also had a letter from Mr. Sheriff Steel, of Glasgow, who practised for about 30 years as a solicitor there; he had the largest litigious business of any solicitor in Glasgow; and in consequence of his very high position as a solicitor and as a lawyer, when there was a vacancy recently

recently in the Sheriff Court of Glasgow, he was appointed Sheriff Substitute, which is rather out of the ordinary course, it being usual to appoint an Advocate. Mr. Sheriff Steel's letter expresses, according to my experience, the views of the legal profession in Glasgow.

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"I have had some practice in the House of Lords, perhaps as much as many, although not all, of the professional men in this city; and, I may just say, in a few words, that from the earliest period of my acquaintance with the profession, and with very rare and singular exceptions, I have all along looked upon the Appellate Jurisdiction, as administered by them in Scotch cases, with great admiration. I would not say that it might not be possible to construct a better tribunal; nor that it does not look a little anomalous to have the Scotch law administered by Judges, who, until they have attained such eminence as counsel at the English bar as to make their services sought after in Scotch appeals, do not, generally speaking, possess any acquaintance with Scotch law. But that very eminence, and their subsequent elevation to a seat in the House of Lords, are the best guarantees for talent and ability; and considering the number that, of late years at least, have always been in the House, every case has had the certainty of being thoroughly sifted.

"I admit there is great plausibility in a proposal which has been talked of, of giving one Scotch Judge a seat in the House of Lords, in order to assist the English law Lords in Scotch appeals; and there are many matters which such a Judge would follow more readily, and in which he would be less liable to misapprehension, than might be the case with the English law Lords before they had had the advantage of a few years' experience. But I think the arrangement open to grave objections. The English Judges in the House must either defer to the opinion of the Scotch Judge in all Scotch matters, or his opinion is to be regarded as of no more weight than theirs. In the former case, I conceive the public would be perfectly dissatisfied, because it is virtually making a single Judge, whose qualifications, however high, cannot be relied upon as being greater than those of his brethren in Edinburgh, sit in review of a judgment always pronounced by three, usually by four, and very frequently by eight or thirteen of the Edinburgh Judges; or at least by a majority, comprising not less than seven Judges, all as well qualified as the one who is set to reconsider the judgment. The same objection, no doubt, applied to the olden time, when the Lord Chancellor alone disposed of Scotch appeals; but, apart from the acknowledged pre-eminence, in learning and ability, which the Chancellors of Great Britain have always possessed, and which rendered their decisions, even when reversing the judgments of the Court below, always satisfactory to the public, there has been no occasion of late years to complain of a single Judge of Appeal having disposed of the whole case; and it might be provided, were such a thing likely to occur again, as there being only one law Lord in the House, that he might have the advice, in appeals, of the two Chief Justices and Chief Baron.

"On the other hand, if the opinion of the Scotch Judge of Appeal is to be of no greater weight than that of the English law Lords, I do not precisely see any advantage from the arrangement; or, indeed, any difference in what would be the result. The English law Lords must just hear the cause, and judge in it as they do now, or else neglect their duty, by merely nominally discharging it, and leaving the real work to be done by the single Scotch Judge. I can hardly suppose that such eminent persons would be so unconscientious as to do that, but the public might readily enough be inclined to think so.

"And I may say, in conclusion, that the rapidly increasing tendency, which the law in both countries has recently evinced, to recognise certain general and universal principles for all cases, as well as to assimilate the practice and rules, especially in mercantile questions, deprives the old objection, of Scotch law being comparatively unknown to English Judges, of a great portion, if not the whole of its force."

There is also an article written by a gentleman in Dundee (who expresses, I am told, the opinion of the profession there) in the Legal Observer, in which he states the very same opinion as to the propriety of bringing up a Scotch Judge, and the great satisfaction which the public have with the present

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constitution of the Court of Appeal. That article is in the Legal Observer for March the 22d, 1856; it is entitled "House of Lords Appellate Jurisdiction."

912. Lord *Campbell.*] Are you aware of any objection that could be made to a Scotch Judge being appointed permanently a member of the judicial tribunal in the House of Lords, ceasing to act as a Judge for Scotland, and acting only as a Judge of Appeal in the House of Lords?

I am not aware of any personal objection that could be made to that; that is to say, no objection to the person of the Judge, nor any objection in principle to an eminent Scotch lawyer being brought up to act as a Judge; but I am afraid that the Scotch people would be very much disposed to think that the Scotch appellate business would be, as it were, devolved upon that single Judge. They would be very much disposed to think that he decided all the Scotch causes. The chief ground upon which the present satisfaction with the Appellate Jurisdiction rests is, I am satisfied, this, that after the cause has been thoroughly exhausted by the Judges of the Court of Session, it comes before a new set of minds altogether—men who have had the greatest legal training in this country, and who apply to it the soundest principles of jurisprudence, and take it up altogether as a new subject. Not long ago, I heard a gentleman who had had great experience in appeals, state his opinion thus: He said, that before he came up upon an appeal case he thought he knew something of the case; but when he heard it argued in the House of Lords, he found out that he had before known very little of the principles of law really involved.

913. Earl of *Derby.*] You have quoted the opinions of several Writers to the Signet; are you aware of a meeting of the Writers to the Signet which was recently held in Edinburgh?

Yes.

914. Do the resolutions passed at that meeting correspond with the views which you have expressed as the view of those parties?

They do not; but those meetings, both of the Faculty and of the Writers to the Signet, are only attended generally by parties who take an interest in them. Men who have business to do, cannot attend meetings. There was a secession of Advocates from the meetings of that Faculty several years ago.

915. Lord *Campbell.*] Does that state of things continue now?

I do not know. I have not attended the meetings of the Faculty myself for eight years; I believe I was one of the schismatics upon the occasion I refer to.

916. Earl of *Derby.*] To which do you attribute the greatest weight is attributable in deciding what the opinion of either the Advocates or of the Writers to the Signet may be—to the resolutions passed by the body as a body, or to letters from private individuals representing their own particular views?

I would attribute greater weight to the opinions of individuals representing their own particular views, not because I happen to have received those representations myself, but because I consider that those Writers to the Signet and solicitors who have attended the House of Lords, and have had appeal cases there, have had much better opportunities of judging than dozens, and hundreds even, of men in Edinburgh belonging to both bodies, who merely treat this question as it were scientifically.

917. Are you aware whether the Advocates or the Writers to the Signet present at those meetings of the two bodies purported to represent, in each case, the views of the whole body?

I was at Edinburgh the day before the meeting. I heard that there was to be a meeting of the Faculty, but several members of the Bar seemed to care very little about it.

918. Are you aware whether those meetings were attended by some of the most eminent of the profession?

I have no doubt the meeting of the Faculty was attended by the most eminent of the profession at the present moment.

919. And those meetings were all but unanimous in their opinion?

A division is very rarely known in either of those bodies; the matter is generally referred to a small committee, who report, and the report of that committee

committee is generally adopted as a matter of course: like all other public bodies, the business is exclusively in the hands of a few.

920. Duke of *Somerset.*] I understand you to say, that the people of Scotland have unbounded confidence in the present tribunal?

I have no hesitation in saying so.

921. According to your opinion, I suppose the people of Scotland having unbounded confidence in the present tribunal, it would be unadvisable to make any alteration in that tribunal?

I should say that any alteration is, at the present moment, entirely uncalled for by the people of Scotland; the call for an alteration is made, I believe, exclusively by some of the profession in Edinburgh, belonging to the Writers to the Signet and the Bar. In fact, I recollect the commencement of it: it was a pamphlet, published seven or eight years ago, the burden of which chiefly was to turn into ridicule some of those slight slips into which the English Law Lords had fallen, from the habit of using English words: for example; an English lawyer speaks of an estate tail; now "an estate tail" is an unusual word in Scotland; we speak of an entailed estate; and it was to be inferred from that, that an English lawyer using that term was ignorant of Scotch law.

922. Earl of *Derby.*] Then the substance of your opinion is, that, so far as Scotland is concerned, you desire the present tribunal to remain unaltered?

Such is my desire, but I do not presume to consider my opinion of great weight. From all my communications with various parts of Scotland, however, I think that is the general feeling of the people. I would presume to suggest to your Lordships to take, if necessary, evidence upon that subject from people in Scotland, who have had an opportunity of forming a judgment. I may be permitted to add, it would be a satisfaction to the people of Scotland to diminish the expense, which might be done by the abolition of the printed appeal cases. And it would greatly diminish the expense if all the Scotch cases were set down for a particular period of the year; for example, if all the cases in the paper were divided, and the Irish cases set down at one period of the year, and the list gone through; the Scotch cases set down for another period of the year, and the list gone through; and the English cases set down for a period of the year when the English Judges could be summoned.

923. *Lord Privy Seal.*] The Scotch people have unbounded confidence in the Court, but they would be glad to have the machinery by which the results are obtained a little improved?

The expense is felt very much. I have no hesitation in saying that if the expense were materially diminished, the number of appeals would be trebled.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to Friday next, Two o'clock.

Die Veneris, 11° *Aprilis* 1856.

LORDS PRESENT:

Lord Chancellor.	Earl of Ellenborough.
Lord Privy Seal.	Viscount Gordon.
Duke of Somerset.	Lord Sundridge.
Marquess of Lansdowne.	Lord Redesdale.
Earl of Derby.	Lord Lyndhurst.
Earl Stanhope.	Lord Abinger.
Earl of Carnarvon.	Lord St. Leonards.
Earl Grey.	

THE LORD CHANCELLOR in the Chair.

Evidence on the Appellate Jurisdiction of the House.

The Right Hon. John Hope.

11th April 1856.

The Right Honourable JOHN HOPE, Lord Justice Clerk in Scotland, is called in, and examined as follows:

924. *Chairman.*] YOU are Lord Justice Clerk in the Court of Session in Scotland?
Yes.

925. You are, in fact, President of one of the divisions of the Court?
I am President of one of the divisions of the Court.

926. How long have you filled that appointment?
Since 1841. I was likewise Dean of Faculty for 11 years, and Solicitor-general for eight years before that.

927. You have all your life been in practice either as a Barrister or as a Judge connected with the Court of Session?
Yes.

927*. Lord *Campbell.*] And have hereditary knowledge of the law?
My father and I consecutively have held the highest offices in the law for more than one-third of the whole period since the union of the kingdoms of Scotland and England.

928. *Chairman.*] Of course you must be familiar with many cases which have been brought, by way of appeal, to the House of Lords?
Yes. Would your Lordships allow me to mention that I did not practise at the Bar of the House of Lords for the last three years I was Solicitor-general, nor during any period of the time I was Dean of Faculty; I found it interfered so much with the business in Scotland, and that people very much complained that you were not in the Court, where they thought they had a right to find you, and, therefore, I gave it up entirely. I may appear, therefore, not to be well acquainted with some things which arise in actual practice before your Lordships' House; but I am not sure that that long absence from the scene of action, and the consideration of the matter in a calmer way, from a judicial position, may not be of some use in enabling me to form an opinion; especially as I recollect very well, from my own turn and disposition of mind, and that of those who were the seniors at the Scotch Bar before me, and became seniors with me, that the tendency of the leading counsel was generally to be discontented with the Court in which they practised, and yet not favourably placed for estimating the judgments in cases which they

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they lose. I recollect one remarkable instance of this. My learned colleague, who is now present, and I were engaged in a case in which we were losing rapidly upon the construction of an Act of Parliament. My colleague said to me, "Dean, these old gentlemen do not know how to construe an Act of Parliament." I assented to that most cordially, and that anecdote was brought back to my recollection lately; I happened to be reading the case for a particular purpose, and I found that I went along with the whole construction of that Act of Parliament which had been recently passed. The whole consideration of the subject of the Appellate Jurisdiction has been a matter of great interest to me. I have in a manner considered the subject very much from a judicial position; and though it is perhaps somewhat delicate and peculiar to be examined with regard to the review of the judgments of one's own Court, yet when your Lordship asked me if I had any objection to be examined, I thought it my duty at once to consent to give your Lordships any opinions of mine which you may think deserve attention.

929. What has been your observation in reference to the working of the Appellate Jurisdiction of this House, so far as Scotch cases are concerned?

I think, in the review of cases from Scotland, there is a peculiar and remarkable advantage in the fact, that the Court of Review is wholly unconnected with the Scotch Bench and with the Scotch Bar; that it is an Appellate Jurisdiction in which the influence and the prejudices of our profession—for those who practise under any system of law will have their prejudices—can have no effect at all. There is something a little anomalous, at first, in the existence of such a Court of Appeal, and also the opinion I entertain upon it may appear anomalous, but it is one which I entertain very strongly, and which is founded upon long reflection upon the system of law administered in almost every country. It is the tendency, I think, of the law in most, if not in all, countries to push its own principles to extremes, to embarrass itself with technicalities and with artificial and technical rules, which generally extend much further than they ought to do, and which lead persons to bring within their operation cases which were never intended to be influenced by them. It would be a sort of lecture upon law to illustrate this at any length, but I have many illustrations of this in my mind. And in order to make myself better understood, I take one case, recently decided in the House of Lords, which to my great surprise has been stated among the delinquencies of the Appellate Jurisdiction, but which is, I think, a remarkable proof of the great benefit of the Appellate Jurisdiction being unconnected with, and not under the influence of those notions and prejudices which so frequently prevail in different professions. I think the law of England itself might have benefited greatly if it had had any such system of review. The case I am going to mention I refer to because I think it will put your Lordships in possession of the grounds upon which my opinion is based in a very few words, and make them intelligible to those noble Lords who are not lawyers. Every body is aware that a great deal of ground in Scotland is feued, and a great deal of ground is also under the burden of ground annuals. In feus, if you part with the ground, you are not liable for the feu-duty; in like manner if there is no other restraint, when you get rid of the ground-annual, you are not any longer liable for it. There crept out of this a sort of notion, and a very prevalent one, that you could not become bound personally for a feu-duty or ground-annual; and at last it went so far that the Court held, that the most express obligations undertaken in express terms, and even in separate instruments, must be controlled by this sort of presumption, that it was never intended to be a personal obligation in the ordinary sense of the term, and that however express, and however clear the obligation undertaken was, it must give way to this general sort of notion, that nothing could get rid of the obligation, and therefore you must equally be free from the payment, although you bound yourselves expressly for it. That question was decided some years ago before the present Lord Justice General presided, and it was afterwards brought before the whole Court; I think I had the pleasure of concurring with him in resisting that view, and in holding that it was impossible from such notions and presumptions to deny effect to a clear and direct personal obligation for the payment of ground-annual. It was carried against us by the majority of the Court. It was appealed, and the House of Lords altered that judgment. There was not a great majority, but they altered the judgment, and found that effect must

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be given to a direct personal obligation; that under all the circumstances, there being no authority against it, there being no statute declaring that people could not bind themselves in a personal obligation, you must give effect to the obligation which existed, clearly expressed, and which was undertaken for no purpose but to bind the party. If that case had not been appealed to a jurisdiction which was entirely independent of the Scotch Courts, it would probably have been affirmed, and I think would have inflicted cruel injustice, and made common sense and express stipulation give way to the prejudices (for such I considered them) gradually arising out of general rules. If you had had a Scotch Judge sitting in that case of any weight and authority, he would, in all probability, have declared that you were going against the law of Scotland; he would have protested against your doing so; and I do not know, if you had differed from him, that it would have made your reversal more satisfactory; I mention that case, because I think it shows how notions and prejudices will creep into the laws, and at last come to influence Judges in a way of which they themselves are hardly conscious, and which renders it a most desirable thing that appeals should be submitted to a tribunal which is not in the least degree influenced by any such contracted views as I think dictated the judgment below in that case. I consider the review of the decisions of the Scotch Courts by judicial minds of a high order, but free from the influence of the prejudices and assumptions which prevail in that and all legal professions, to be invaluable. It is of the same importance with the intervention of the common sense of a jury in the practical application of the law laid down to them, to the actual facts and justice of the case in hand.

930. Lord *Sundridge.*] Are the Committee to understand you to say, that you thought advantage would be derived from a similar practice being pursued as regards appeals upon points of English law?

I do not mean to recommend change; I only meant to say, that I think by a similar tribunal the English law might have been kept right in many cases.

931. Do you think that the English lawyers would consider it a benefit that the Appellate Jurisdiction should be exercised by a body of men who were unconnected with the English Bench and Bar?

I do not suppose they would; but I consider it to be a great benefit to our law, and I should refer to that as one of the particular grounds of the satisfaction which the Court of Appeal has always given in Scotland.

932. *Chairman.*] We have been led to suppose that the opinion you have expressed, though it was very prevalent a few years ago, has gradually died away, and that now there is a very strong feeling in the contrary direction; do you think that is the case?

In the Faculty of Advocates it appears that there is of late a very decided opinion of that kind, and to some extent it prevails among the Writers to the Signet, but throughout the country and among suitors I am aware of no change. On the contrary, I understand that it was stated to your Lordships by the Solicitor-general for England, that when he threw out some hint of that kind a few years ago, he received from all quarters suggestions deprecating any such change in the strongest possible terms. I always believed the suitors to entertain that view very strongly indeed, and to be exceedingly unfavourable to any such notion as that of a Scotch Judge being placed upon the Court of Appeal. The present feeling, as far as my knowledge goes of the Faculty of Advocates, is quite new. I never heard the subject broached during the eleven years I was Dean of Faculty; and I can speak from my positive knowledge that Lord Corehouse, Lord Moncreiff, Lord Murray, and others, who were seniors to me, thought that it was quite an essential feature of the Court of Appeal that there should be no Scotch lawyers, but that it should be composed entirely of English Judges. There are a great many benefits I think resulting from that. I have adverted to one of the most material, and I think that that is a very great advantage in the review of the judgments of any Court. If you view the Appellate Jurisdiction merely as an ordinary form, a step in the common course of procedure, it may appear more anomalous; but the cases which come before the House of Lords are comparatively few. A large proportion of the cases are mere business transac-

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tions. Your Lordships must have seen how many relate to railway matters and commercial matters; very few of them depend upon the technicalities of feudal law. There would not be, I suppose, in any Session more than six or eight cases which you could say were really technical cases in the law of Scotland. You have always very full reports of our opinions, and I suppose our opinions in deciding a case are found to be generally longer than the opinions of English lawyers, and in every important case very able arguments from Scotch lawyers, as well as our full opinion. I do not know what more assistance you are to obtain from similar opinions being delivered personally in the House of Lords. If the Scotch Judge differs from the law Lords who are sitting with him, that would not make their decision more acceptable. If he agrees with them, on the other hand, they have the same materials for their judgment in the opinions of the Scotch Judges.

933. We are given to understand, that even when cases have been, in the opinion of the profession in Scotland, rightly decided by the House of Lords, the Order of the House is sometimes drawn up so untechnically, that it is difficult for the Court to act upon it?

Such cases are very rare. I was going to make a suggestion upon that subject by proposing a kind of assistance of a very humble nature, but which I think would be very useful. I desire to add, however, that it is not easy to separate the general question about the advantages of the Court of Appeal at present, from the view to be taken of the way in which you could improve it.

934. Lord *Sundridge.*] Some former witnesses have expressed a very decided opinion that, in certain cases, the effect of the Appellate Jurisdiction, as exercised by English lawyers, has been more or less to invade the principles of the law of Scotland?

I have marked a list of your Lordships' supposed delinquencies in your Appellate Jurisdiction, and I shall think it right to explain some of those cases afterwards. There seem to me to be only three modes in which an improvement in the present Court of Appeal could be made; one is, to take a Peer either from the Scotch Bench or the Scotch Bar; that, however, is a measure that cannot always be counted on; it is a matter which is more for the Government; and I do not know how you could come to the resolution that there must be a Scotch Peer. Some of the best Judges might decline to accept it; therefore, I think that would be a very hazardous view to take, and to lay down as necessary for the advantageous administration of the Appellate Jurisdiction of this House. I dare say it is a matter which creates observation in Scotland, that while there have been 20 Peerages given to the English Bar since 1800, there has not been one since the Union in 1707 given to the Scottish Bar. But that is not a consideration to influence the Committee in any degree; and I do not see how it is possible to lay down the principle that the mode of improving the Appellate Jurisdiction is by having a legal Peer always brought up from Scotland. The other mode is that there should be permanent assistance; that is to say, that some one should be brought permanently to assist in Scotch appeals.

935. Lord *Campbell.*] As assessor?

As assessor or *quasi* Judge. If he were not a Peer, I think he would carry much less weight than he ought to do, if he is brought for the purpose of protecting the Scotch law, and improving the Appellate Jurisdiction; but, supposing some mode could be devised, giving him place and vote in judgment, I think there are several decided objections to it. In the first place, it implies that he is to be disconnected from the actual administration of the law in Scotland, for to give them a member of the Scotch Bench would be a thing quite out of the question; but then he would very soon lose many of the qualities for which you took him; because I am quite confident that if a person were not continually engaged in the administration of the law in the Scotch Courts, he would very soon indeed lose a great deal of his Scotch law, and the familiar and happy application of his knowledge of it to the cases which came before him. Then he ought, on the other hand, for the purpose for which you want him, to be a man tolerably well wedded to the views of the law taken by Scotch lawyers, or he would not afford the protection it is supposed the Scotch law requires. It is to guard the Scotch law against the supposed

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posed intrusion of English legal notions that it is thought he is required, and because the House of Lords, without that aid—I should call it control—cannot dispose of Scotch appeals. Just consider, then, what a situation that is for a man to fill, and how curious the position in which he and the tribunal would be placed. You would select the best man you could find for the purpose. He ought, therefore, to be a man of high authority, and he is sent to aid the jurisdiction, the efficiency of which you condemn by placing him there. His opinions, however, may not turn out, in the estimation of the Court, more convincing or satisfactory than they were to the Appellate Jurisdiction before he was brought up. You may have the reversal of judgments in which he concurred before; and you may find by closer contact with him that he has lost something of the weight he had when his opinions occasionally came before you. If you do not succumb to his opinion; if he is not to be a sort of lord paramount of the Appellate Jurisdiction, in which case the House of Lords would lose all authority, what is the result? There are three law Lords sitting along with him; they all differ from him; it is found in consultation that there is a difference of opinion; in what a predicament are you then placed if they overrule his judgment; that surely would not make your reversal more satisfactory than it would otherwise have been. On the contrary, it would enable the losing suitor to say, "Here is a pretty Court! The Scotch lawyer is in my favour, and the English Lords overrule his judgment." If, on the other hand, he is for the reversal, and the law Lords are not for the reversal of the judgment, it certainly would not add to the weight of your affirmance that the Scotch Judge differed from you. Then how is he to give his opinion? If he is brought here to keep your Lordships right, is he to give his opinion first, and then, if he differs, the law Lords to follow him; or is he to give his opinion last, to set you all right? The grounds of difference of opinion can never, as I know, be fully known or appreciated merely in previous conversation, or before we hear the full opinions of others. Then, if he goes over your opinions, and shows them, as he thinks, to be wrong, what then? Are the English law Lords to give way to reasons when stated by him, which did not convince them when stated in the opinions of the Court below? If not, then your judgment will just have less weight. I think the situation is so extremely anomalous that I cannot conceive it would ever work with any good effect; and the fact that he is not a Peer, and is not sitting with authority and weight, but in the strange position of having a vote, and yet not being a Member of the House, adds to the difficulties of the case. It is difficult to conceive any situation—and I know of none—in any country analogous to that which is proposed. You are to select a person whose opinion is to be supposed to be of greater authority than the opinions of the whole of the Scotch Judges: he is to be sent for the purpose of maintaining the law of Scotland in the House of Lords against what may be supposed to be the want of knowledge or the prejudices of English lawyers. I am not aware that there is in any country a judicial position of such importance as is implied in the proposal, or such a singular want of powers, if he is to be of any use at all. I can say with perfect truth, that since I came to the Bar, at the end of the year 1816, I have never known a man on the Scotch Bench, or at the Scotch Bar, to whom I would have wished to have seen a judgment submitted for review in the way that is proposed, with the aid of such an assessor; there is not one single man in my recollection. I did not know President Blair; his was undoubtedly a great name, but a great lawyer may not have all the qualifications required for such a singular position—a position which implies more judicial qualifications, and more qualifications besides those of a lawyer than any other which could be named: I beg to repeat that I do not know any person to whom I would commit, with satisfaction, in the way proposed, the review of the judgments from the Scotch Courts. And then I suppose this must be clear, that to appoint any one who was not a Scotch Judge to come up to review the decisions of the Scotch Judges, would be a most objectionable thing. I dare say all your Lordships would go along with me in saying, that when you first come to be at the head of a Court, or on the Bench, it is a great struggle to bring down the mind of an ardent Advocate into that of a calm and dispassionate Judge; and certainly it would require a long training on the Scotch Bench before you could have any confidence in putting anybody in the situation I have proposed. I believe it was stated, either by one of the English counsel who have been examined, that any such person ought to

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be a person whose judicial qualities have been well ascertained: then would such a man be of most use here or in Scotland? If you were to take away the President of the Division, as the fittest man you could find, would you improve that Court? I should say he is of infinitely more use in Scotland than he would be here; and though you may differ from him occasionally, and review his opinions, he is of daily and incalculable benefit in the position in which he actually is. The Faculty have put forward no plan: they came to a sort of general resolution, but they did not say how it was to be carried out. The Writers to the Signet, however, have come to more explicit resolutions, they being far more brought in contact with the clients, and they show that what may be called the foreign element should predominate. They say it would be of great importance to obtain the assistance of an eminent lawyer, thoroughly acquainted with the Scotch law and practice, and he ought to vote in the House. By the Resolution of the House of Lords, they say it should be directed that all appeals from the Scotch Courts should be heard by not less than three law Lords of the House, of whom the Lord Chancellor and this Scotch lawyer should be two, but they stipulate for not less than three law Lords. Observe the importance they attach to the predominance of the English law Lords. How three law Lords are always to be obtained, they do not very well know, but it is not necessary for me to consider that. Your Lordships know by what accidents sometimes there may be no one but the Lord Chancellor able to sit, and how soon you may lose, in fact, the aid and concurrence of the ex-Lord Chancellors. So far from concurring in this view, I think the perfection of the Court of Appeal is the Lord Chancellor sitting alone. It would be quite absurd, of course, not to take advantage of the other law Lords who have been Chancellors, and are thoroughly conversant with the Scotch law; but I think there is something in the deep responsibility thrown upon the Lord Chancellor sitting alone, which gives great confidence in the Court of Appeal. Where there are three Lords, it may sometimes be vulgarly fancied, perhaps, that the judgment has been come to more easily, because it is found that three concur in it, and less labour on that account is bestowed on it. I cannot say that any greater want of labour is shown in the judgments which have been given in the House of Lords, where there have been several Lords present, than if the Lord Chancellor were sitting alone. In the latter case, however, there is the most deep and weighty responsibility; and I do not suppose that any Lord Chancellor would ever reverse without feeling that responsibility, and without the greatest consideration of the subject in every kind of way. I may add, the Procurators in Glasgow, a very numerous body, and in great contact with suitors, have come to a resolution, I understand, recording an opinion against the introduction of a Scotch Judge.

936. Lord *Sundridge.*] Supposing it were determined, without the least reference to the question of Scotch appeals, that the Court of ultimate Jurisdiction should consist of three or more, would that alter your opinion as to the expediency of having one of them a Scotch Judge?

Not in the least degree. With reference to that portion of the question, I do not know whether it is implied that it should be a Court not constituted of those law Lords who may happen to be in the House, but that some one should be brought into it from the Common Law Courts of England. If that be proposed, I should say, without meaning to cast any reflection upon my excellent friend Lord Wensleydale, nothing could be so detrimental to us as to give us a Judge from the Common Law Courts of England; they are fully as much—I should say more—under the influence of the technical rules of the law of England as we can be in Scotland, and I should be very sorry to see a Court constituted in that way.

937. Lord *Campbell.*] Would you repose confidence in the single decision of a Lord Chancellor, who had not been acquainted with the law of Scotland before he received the Great Seal?

Such a case has only once occurred. But I can answer that question best by saying, that I do not know any judgments which gave more satisfaction than those of a venerable Peer now present, when he sat alone as Lord Chancellor. In the case of the Lord Chancellor, you have a very powerful mind, not wedded to the technical rules of the law of England in any degree from the position he has previously been in in public life, bestowing great pains upon the cases, and applying

applying a very vigorous intellect to the consideration of them; and although no doubt it is an immense benefit for a Chancellor to have been engaged in Scotch appeals before, yet I do not think that is a consideration which has been shown to have detracted from the merits of their decisions.

938. Lord *St. Leonards.*] Are not you aware that, speaking generally, it is not likely that anybody will be Lord Chancellor who has not practised largely in Scotch appeals?

Most certainly. The case I allude to is an instance, no doubt, of the reverse; but in general the Lord Chancellors have been always those who have practised at the Bar of the House of Lords. It is a very important tribunal to attend. I presume every counsel of any eminence in the law of England desires to be employed in appeals. I recollect that when I was at the Bar, those lawyers who practised in the House of Lords were the first counsel of the time. Lord Gifford, from the time he had been made Solicitor-general, was very much engaged in Scotch appeals. I do not think I was in any appeal from 1822 to 1827, in which Lord St. Leonards was not engaged on one side or the other. I think that the Scotch solicitors in London have a notion that perhaps English counsel might puzzle the Court of Appeal more than Scotch counsel could. I found, however, quite the reverse, because I always saw that the Appeal Lords saw perfectly through the attempt to give them any English law; and the Scotch counsel puzzled them much more, because they brought forward arguments to which, till they heard the reply, they might not see the answer. But certainly English counsel of the highest eminence are always engaged in the Scotch appeals, and seem to desire that employment.

939. You are aware that, in Scotch appeals, it is rarely that there is a case of great interest in which Scotch counsel do not appear and assist the English counsel?

No doubt of it, and accordingly the facilities for that now are very great. Instead of being two or three days in coming to London, you are not above a day. Provided some better means of distributing the business in the House of Lords should be devised, you might have your case heard, and get back to Scotland the day after.

940. *Chairman.*] You have suggested two courses which might be taken, making a Scotch Judge a Peer, and making a Scotch Judge an Assessor, without being a Peer; you spoke also of a third course, what is that?

The third was this: but I do not know that it has found favour in the eyes of any of your Lordships, and I do not wish to take up your time by going over it. There is the notion of calling up some of the Scotch Judges. I have insuperable objections to that; but perhaps I need not discuss that alternative at all. It was intimated that the Committee did not desire that view to be entered upon.

941. Lord *St. Leonards.*] Do you see any benefit that would be derived from sending a question of Scotch law to be considered by the body of Scotch Judges, just as we now ask the opinion of the English Judges upon questions of English law?

In some cases, I think, that might advantageously be done, if sent for explanation to the Division which decided the case; if to the whole Court, then the case must be reargued. And I very much doubt if the experience of the law Lords in appeals would enable them to say that they could extract a question out of our pleadings in the same manner as you can, I believe, in English cases for the English Judges. If the point were really one which arose for the first time, and had not been argued in Scotland, my proposed remedy for that is quite different.

I come now to causes supposed to be wrong decided in the House of Lords. Your Lordships are aware, I dare say, that soon after some observations were made in the House of Lords upon the subject of appeals, there was a pamphlet written by an eminent member of the Scotch Bar, going over what may be termed the delinquencies of the Appellate Jurisdiction, and showing up a number of cases in which there were supposed to have been wrong judgments upon points of Scotch law. All those cases, I understand, have been stated to your Lordships, with the exception of the one to which I alluded just now. Really I am very much surprised and mortified to see such an attempt to run down

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such an institution as the Appellate Jurisdiction of the House of Lords, by the exhibition of statements derived from those cases. There are one or two of them in which it is said that some error in point of form had been committed. Going back a great many years, one in Lord Eldon's time is referred to. No doubt that was an error in point of form; but it was merely one of form, repelling defences when they ought to have repelled reasons of suspension, or something of that kind. No real inconvenience could possibly follow; for it came back to us to apply the judgment, and of course we put the thing in the right form. Then, it is said, a great blunder was committed by Lord Eldon in a case about a decree by an arbiter, in supposing that certain regulations issued by Scotch Commissioners had not the authority of an Act of Parliament, and that they were disregarded when he ought to have submitted to them. All I can say is, that several of us have recently given an opinion judicially that these regulations have not the authority of an Act of Parliament—not upon Lord Eldon's view, but because they were never ratified by the Scottish Parliament; and secondly, several of us have interpreted those regulations as not having reference to the class of cases to which Lord Eldon's judgment applied at all, but having reference to improper and corrupt motives on the part of the arbiter himself. Two or three cases decided by Lord Wynford are stated to be great delinquencies indeed; one was the case of M'Gavin *v.* Stewart, in which it was said Lord Wynford, who sent down a case to be tried by a jury, directed two parties to be examined, and that he did not know that we have no difference between special and common jurymen in Scotland as to the character of the jurymen—there being simply the money qualification. That case was to be tried before my father, as Lord President, and I was counsel in the case; it was of this description: during the war with America, two brothers, or two cousins, carried on business; one was in America, and got himself made an American citizen, and afterwards the partnership was dissolved; and the question was, whether the brother here was not entitled to participate in the profits. It was very requisite to hear what that brother should say. The action was carried on by his trustee, he having become bankrupt. My father said parties could not be examined: I pressed upon him, on the contrary, that they could be submitted to a judicial declaration in Scotland, which has often been done; and if that had been done, it would have been laid before the jury; and I intended to have brought the thing, by a bill of exceptions, up to the House of Lords. While we were discussing the question, however, and he having written to Lord Lyndhurst to know what should be done here, it turned out that the bankrupt was dead, and then it was at once stated, "You may hold yourselves absolved, for it could never be permitted that one party should be allowed to make a statement to a jury, and not the other." Even before the change in the law of evidence in Scotland, allowing a party to be examined, I had no difficulty, as an oath of supplement for the value of goods was allowed by the law of Scotland, in allowing a party to be examined in the course of a trial in support of the value of the goods he had lost by the negligence of some shipping company; and he was examined. I think Lord Wynford took a very sensible course. Then there was the case of Allardice *v.* Robertson, shown up in that pamphlet, which went up by appeal to the House of Lords; that was an action arising from something said by a magistrate after sentencing a poacher for some offence: there was certainly bad law laid down, as the judgment afterwards showed, by the Lord Chief Commissioner. There was an exception taken, which exception was sustained in the Court of Session; but at all events, in the House of Lords, Lord Wynford very properly added to the formal words a declaration what the law should be, namely, that malice was the gist of the action: this nettled my excellent and worthy friend the Lord Chief Commissioner; and after Lord Wynford retired from the House of Lords, he got some one, who probably knew nothing about the matter, good-naturedly to pass an Act of Parliament to declare that it should not be competent in a Court of Appeal, where you are sustaining or repelling an exception, to add any declaration of any kind, though you thought it necessary for the judgment of the case; and, unfortunately, that Act of Parliament passed. I think the judgment of Lord Wynford was right, and the Legislative Act wrong; and I think, by repealing it, or by not using words of declaration, but pronouncing findings, as might be done in some of those cases, you might very beneficially do the same thing in another form. Then there was a third case, which was before Lord Wynford, where

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where he reduced a deed as fraudulent, without a jury. The Session before, Lord Lyndhurst did the same thing in a judgment, which every person approved, in the case of a deed obtained from an old man who, from the productions, was quite unfit to grant it. A case of fraud, under our statutes, is not necessarily one to go to a jury; though I think cases of that kind are far too often sent to a jury. But no proof was asked, and the Court below disposed of the case without proof. Then there was another case, which in that pamphlet is said to be "universally acknowledged to be a blunder." I believe it was stated to your Lordships that that judgment tended to the subversion of the whole system of feudal conveyancing in Scotland. That case was carried by a very narrow majority in the Court of Session against the opinions of the heads of the Court at the time; and it came on in a very curious way. The father of Sir Thomas Cochrane succeeded to an estate in Lanarkshire. Politics ran very high at that particular time, and there is no doubt Sir Alexander intended to cover the estate with those holdings which were so common in Scotland. Accordingly, the political party bought up the claims of two or three different claimants to endeavour to get rid of this estate. In consultation with Mr. Matthew Ross, we went over the cases of all the claimants; and in regard to Dr. Ramsay's case, that very great lawyer, he stated to me—and I put forward the plea from notes which I took from his mouth 15 years afterwards, against the last claimant, having got rid of the others—that plea was, that there had been a prior service by another party to an ancestor, which excluded him. Some few years before that, the character of a service in the law of Scotland had been lost sight of, and it was thought that the service might have been looked upon merely as proving propinquity, but not as carrying any right. That was a complete departure from the principles on which the law of services rested, and from the true character and object of a service—for to prove relationship alone was not the object of a service—but so I took the objection that he was excluded from a former service; that is to say, the service of another man intervening; that was most keenly discussed in the Court: I think the majority was a narrow one; but the feeling prevailed, that you need no longer look to the proper object of the service, which everybody knows was to carry a right, but that you might look upon it, and disregard it merely as a proof of propinquity. Some of the best feudalists in the Court were against the judgment. Lord Wynford, in a very good speech indeed, went back to the principle of it, and finding no good authority in support of the judgment, he reversed it. That is now said to be a great blunder, but it was one in which two heads of the Court concurred, and some of the most learned Judges concurred. Who is to say that that is to be regarded as a delinquency on the part of the Appellate Jurisdiction, or a proof that they are unfit for the high duty which they discharge? They merely concurred in the opinions of Lord President Hope, of Lord President Boyle, and various other Judges. That does not look like a case to be treated as a reason for altering an institution which has worked so admirably for 150 years. Then there was a case in which it was said the House of Lords committed a great blunder—Aourmer against Galbraith; it reversed a judgment undoubtedly in which I concurred.

942. Lord *Campbell.*] Affirming the judgment of the Lord Ordinary?

Yes; I concurred in the judgment which the House of Lords reversed; but I was not surprised at the reversal. It was not a proposition about highways; it was a question respecting the size of a road in a private estate which a person had opened for his feuars, but the rest of the place he was entitled to deal with for the management of his feus. He had got the trustees of the roads to repair it, and he could not have taken it away from the public after that. But it did not involve a question about highways at all, and I was not surprised at the reversal; and it had the authority of the very learned Lord Ordinary in its support. It is very singular that a case which was a good deal shown up in the Scotch papers has not been mentioned as a proof of inefficiency in this tribunal—that is the case of a dog, of the liability of the owner of a dog not known to be vicious for worrying sheep, which some of your Lordships may recollect. It was in all the sheep district papers. "That is introducing the law of England wholesale upon us. The owner of a dog is said not to be liable, unless the dog is known to be a vicious dog and apt to worry sheep." Whether

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that was a right judgment or not, I am not called upon to say; but the reversal had the support of a most learned Judge of my division from which it came, and it had the authority of Lord Stair in its support. The House of Lords preferred the authority of Lord Stair, with no counter decision, to the view which several of us took upon the law. Lord Cockburn said it seemed a very singular thing that a dog was to be entitled to one worry before the owner was made liable for the sheep injured, and the case produced some little excitement. But that cannot be looked upon as having any bearing upon the opinions which have been expressed. Perhaps your Lordships will give me leave to suggest some few practical matters in the management of appeals which I think will be very important. I do not suppose they will be dissented from, but I rather suppose that when appeals are numerous, they are occasionally lost sight of. I think, whenever a judgment is affirmed, the expenses ought to be given as a matter of course; and even some small alteration in the judgment should not prevent that rule being carried out.

943. Lord *St. Leonards.*] That is usually the case, is not it?

It is usual. But there have been, and I think still are, exceptions. I defended the entail of an ancient estate to which I was next heir in the Court of Session. I had the opinions of the whole of the Judges: it was appealed. The judgment was affirmed without difficulty, but I was refused the expenses.

944. Lord *Sundridge.*] Is not the number of appeals from Scotland very large?

I do not think so, considering what is said to be the temptation to appealing, that you have a better chance of getting the judgment reversed than not, which is not the case. There is another point in regard to the expenses which I am very anxious to mention to your Lordships, and that is, that when you make a remit, power should be given to the Scotch Court to deal with the expenses of the appeal. It has been decided by the whole Court in Scotland that we have no power to do so. Supposing, for instance, you remit a cause, upon the pressing application of the appellant, upon a matter of fact, and that fact turns out to be the other way; in other words, he has failed in that which led you to make the remit, and I think you should insert in your judgment the power to give the expenses against him.

945. Lord *St. Leonards.*] You are supposing a case in which the cause does not come back to this House?

Quite so; it is of that case I am speaking. I believe that that subject has never been brought before your Lordships in any form. If it does not appear presumptuous to offer you these suggestions, there is another matter that I wish very earnestly to press upon the Committee—more earnestly than anything else—that is, never to allow any new point whatever to be started in the House of Lords. Now this happens much oftener than your Lordships are aware of, because parties are allowed to prepare an appeal case after our judgment is pronounced, though they are not allowed to have a printed argument before it is pronounced; and everything in that appeal case appears to come to you as if it were a matter argued in the Court of Session; you look to the pleas and the propositions stated in the appeal case, or stated at the Bar, and not solely to the pleas stated in the Court of Session. Now, if you had nothing but the record from the Court of Session, and allowed no printed argument at all—the use of which I am sure I cannot see, considering the length at which cases are argued before you--you could then check the counsel at once when they were going into matters which did not appear on the face of the pleas. I do not mean to say that a point of importance may not be started; but, if of importance, it should be remitted for the consideration either of the division or of the whole Court, if you think it of great importance; but you should never allow any point whatever to be started which has not been stated in the Court of Session. There are two or three cases which have struck me very much, where the points upon which the House never had been mooted in the Court of Session at all. In the case of Marianski, the difficulty Lord Truro had about the terms of the verdict was never stated to us. The uncertainty of the verdict in the case of Morgan last year, was never stated to the Court of Session. The best person to interpret the verdict, we thought, was the Court who received it—which could call for the notes of the Judge; and I think it is quite essential that

that you should make a peremptory rule as to new pleas. Abolish appeal cases; limit the party to the pleas stated in the Court; or if new matters occur—because matters may occur to your Lordships which have not occurred to us, and of which you cannot divest your minds, which you think should be maturely considered—let them be remitted—let them be remitted to the division; it is not necessary to call upon the whole of the Judges in every case, as is done at present under your remits; and if it turns out that the decision is clear, it can be done much more easily and at much less expense, and the appeal might stand over till the point has been so disposed of.

946. Any one who has seen much of Scotch cases must know that new matter and new argument is so mixed up with the actual pleas before the Court of Appeal, that it is exceedingly difficult at any time to trace what was actually the matter of law and fact as before the Court below, when the case comes before the House of Lords. Would this suggestion meet your view: supposing it were made a rule that the actual state of the pleading should be stated by itself, not mixed up with anything else, and then allow to the appellant and to the respondent, in answer, to state anything they may wish to say to the House?

No; I should wish very much indeed that there was no appeal case; you might allow them to give a list of authorities, but I should wish the case to be disposed of upon the pleas before the Scotch Court.

947. Lord *Sundridge.*] Your object is to prevent an Appellate Jurisdiction being exercised by English lawyers upon any point which has not been already raised and duly considered in the first place by the Scotch Courts?

If the Appellate Jurisdiction were composed of Scotchmen, my remarks would equally apply.

948. *Chairman.*] You consider that the Appellate Court ought not to decide in the first instance any point which has not been before the Court below?

Yes; I should not listen to or countenance arguments upon any point of that kind.

949. Lord *Lyndhurst.*] Supposing, according to the English practice, there is a question upon the record which has been overlooked, and it comes before the Appellate Tribunal; the Appellate Tribunal can lay hold of that particular question, though it was not argued below?

I am supposing a case where the matter is not upon the record below.

950. *Chairman.*] Do you think the House of Lords ever decides upon a matter which was not raised upon the pleadings below?

I think it has been done; I am afraid it is impossible to deny, that in taking up an appeal case, it has been thought that a matter has been stated in the Court below, which if you looked to the record alone, you would find had not been.

951. Lord *Sundridge.*] It is to remedy some grievance which you have felt that you make this suggestion?

It is. We see when cases come back to us, or when the report of a case has been made, that your Lordships have sometimes disposed of it upon grounds which had never been argued or stated to the Scotch Court.

952. Upon such points, your experience leads you to believe that the House of Lords is liable to be misled?

No; I do not say that they are misled. They may have decided rightly; but on the other hand, I do not think there should be any decision at all.

953. *Chairman.*] You cannot exclude arguments which properly arise upon the case because they have not been argued below?

Certainly not.

954. Lord *St. Leonards.*] You are aware that when you come to the Court of Appeal, the case has been so thoroughly sifted, that the parties understand much better what they are about than they did in the Court below?

I am scarcely aware of that.

955. Cases are argued with more knowledge at the Bar of the House of Lords than has been exhibited in the Court below?

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That may be so in English cases, but I am not prepared to say it is so with regard to Scotch cases.

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956. Lord *Lyndhurst.*] We have a marked distinction in this country between a rehearing and an appeal. A case is heard before a learned Vice-Chancellor: the parties are dissatisfied, and they appeal to the Lords Justices; it is not, strictly speaking, an appeal, but a rehearing, and that is treated in a manner very different from an appeal; when an appeal comes to the House of Lords we are confined to the record; any omission by the Judge in the Court below we can supply?

Of course; arguments, of course, cannot be excluded; but what I wish is to see no appeal cases; in that way, I am sure, a great deal of matter would be kept out which is now introduced.

957. Lord *St. Leonards.*] Would your proposition go to the extent of preventing any argument whatever being stated in an appeal case?

Yes; it is very difficult for your Lordships to divest your minds of the notion that it is what has been addressed to the Court of Session. There is one case I have in my mind in which I had occasion to examine the appeal cases, and I found arguments about the propriety of what the Court had done which were never mooted to us. The case related to the consignation of money.

958. You are aware that the same practice is adopted in English and Irish cases as in Scotch cases, though they are not marked out under so many divisions as are introduced into Scotch cases?

I think the cases you receive now are very objectionable.

959. You think that the record, with the printed report, would be sufficient?

I do; and if a point arises which you think material, in my opinion you should remit it in the manner I have stated; then I rather think it would be advisable sometimes to discountenance, with a view not to decide upon them, any argument on matters of mere procedure in Scotland.

960. Lord *Sundridge.*] Do you complain of any erroneous decisions upon those questions of procedure?

I think there have been one or two.

961. Earl of *Derby.*] Can you state any instance of what you have now referred to?

There was a case before Lord Cottenham, in which there was an order for consignation of money made after a judgment had been pronounced many years before in favour of an individual, and against the party who held the funds: she could not get the money without giving a discharge as her father's executrix. The defendant against whom the judgment went made his wife, her sister, appear and resist her getting confirmation as executrix, and so kept her out of her money for 15 years after the final judgment was pronounced giving it to her. We had pronounced an order for consignation; and upon some views which were introduced into the appeal case, that judgment was altered, and 10 years more were lost before the lady got her money.

962. Lord *Sundridge.*] Are there many such instances?

There are sufficient to justify me, in my opinion, in pressing it very earnestly upon the Committee. But I do not say many cases.

963. *Chairman.*] You are not able to say what proportion of the decisions of the House of Lords in English cases have been complained of?

Not in the least; I believe it will be found that in 19 cases out of 20 the leading counsel who loses the case is exceedingly dissatisfied at the time.

964. Lord *Lyndhurst.*] May I say that cases from the Scotch Courts are much easier even than those from the English Courts?

I have heard that remark made. If it is not intruding upon what is actually a matter of discretion with the Judges, I should like very much indeed, when the law Lords concur in affirming a judgment, that there should be no opinion expressed: it used to be the practice for a very long time indeed; Lord Eldon, in a few instances latterly, departed from it; Lord Gifford, I think, was the first who departed from it. I think it adds to the authority of the

the Court below, when, after hearing the whole of the arguments, you are satisfied that the judgment should be affirmed, simply to affirm.

965. Lord *Campbell.*] Did you never hear it urged that that held out a temptation to the Court to take less trouble in considering a case?

If you wish to alter the Appellate Jurisdiction upon the notion that the Judges are not conscientious, you may listen to that argument, but not otherwise.

966. Lord *St. Leonards.*] The House, of course, has been in the habit of giving reasons for the affirmance for the satisfaction of the suitors?

In some instances it happens that the judgment has some difficulties, and the grounds taken for concurring seem to encourage appeals in other cases. If it is not a point of law of great importance, but a mere ordinary question arising out of business transactions, why should your Lordships give reasons in affirming a judgment in which you all concur. Where there is a difference of opinion, I think the Judges are bound to express their opinions.

967. Lord *Campbell.*] You think it would be better to give no reasons at all where the judgment is affirmed?

Yes.

968. Lord *Sundridge.*] Do you mean that erroneous reasons are frequently given for a right decision?

No: but a course is taken showing the difficulty in getting over doubts in your Lordships' minds, which are got over, but the statement of such doubts only increases the tendency to appeal.

969. *Chairman.*] May not it happen that the Judge of Appeal may say, I think this decision was quite right, but the learned Judge in pronouncing the decision has said so-and-so, from which I dissent?

Of course, I am supposing you have no new view to take. I was going to mention one thing—I am glad to say it has not occurred of late years so much as it used to do—that is, the delay which sometimes takes place in pronouncing judgment. Nothing was more complained of in Scotland than a matter which occurred a good many Sessions ago, at the close of the Parliament—18 Scotch cases were decided in two days.

970. They had been argued before?

Yes. Nobody can look at the opinions without seeing that they had been all of them fully considered. I recollect Lord Brougham writing to me, and saying that they had been, and no doubt, on reading those opinions, it appeared that they were; but to the people of Scotland it looked very much otherwise. Those were all affirmances, and they would be inclined to say, this was an easy mode of getting rid of the cases. There are now two cases which have been standing over for some time, which have created a good deal of observation, which leads me to press this point strongly. One is the case of the magistrates of Linlithgow, and the other a case about salmon fisheries. In the last case, as to the salmon fishings, there are only four Judges now upon the Scotch Bench who were present when the judgment below was given.

971. Lord *St. Leonards.*] In that case the House was requested not to dispose of it. I had taken a great deal of trouble in the case; I assisted in the hearing of it, and I was entirely prepared to give judgment; and we were requested, whether directly or indirectly I do not know, to postpone?

I was going to make another suggestion for affording some aid to your Lordships, of a humble kind, but which I think would be of great use, namely, that the House should appoint, or if they do not appoint their own officers, get the Crown to appoint an assistant Scotch clerk; you would, in that way, have any alleged errors in your judgments, in point of form, kept perfectly right. You would have them applied in proper terms to the form of the action; and if there was any matter of form or procedure which occurred, an intelligent person, not a barrister, but who had been in practice as a solicitor before the Court, would aid your Lordships very much indeed. That would remove, assuredly, five or six of the cases which are shown up as alleged blunders from the want of knowledge of our forms: such a person would be able to keep you right. In Scotland, they very often draw the judgment of the Court. And then you would have this further advantage. You cannot be aware of the great number of questions which have occurred in the Scotch Courts upon the legis-

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lation of the last ten years since 1846. Bills are brought in about Scotch law which perhaps have not been very well prepared; parties oppose them; they go to a Committee; one Member suggests one alteration, and another suggests another; and the Bill is patched up at last, containing clauses composed by two or three persons, blended together without discrimination; and questions which ought never to have been heard or thought of are so left, creating great embarrassment to the Court below. Such a Scotch clerk might be employed upon those Bills, to revise them, and also to warn you that a Bill is passed for the United Kingdom, which, in its object, was intended to be passed for England alone. There is nobody, in reality, in the House of Lords, unless his attention is specially called to it, who can attend to the legal legislation for Scotland.

972. Lord *Lyndhurst.*] Would it be advisable to extend that to the House of Commons too?

I cannot judge of that, of course; but Bills come out of the House of Commons in such a style that they ought to have some correction. A case occurred of this description: some country gentleman brought in a Bill in the House of Commons, in regard to the apportionment of rents between heir and representatives, which passed. Lord Jeffrey stated, that though he was Lord Advocate, he never heard of it; but in a clause of this Bill it was declared that it should extend to the whole of the United Kingdom. The Court were very much embarrassed by it; and many Judges wished to deny effect to those words, because everything in the Bill was English, and it was to correct an English evil. I wrote to Mr. Baron Alderson about it, who told me that there were countervailing deductions and compensations established in the law of England, which made that a light thing in England, but it altered the whole relation between executor and heir in Scotland, those compensations not existing in our law, we not having required them.

973. Lord *St. Leonards.*] What is the sort of person you would recommend to fill the office of which you have spoken of Scotch clerk?

I would take him not from the Bar, but from among respectable solicitors.

974. Would not you require a man with some knowledge of the law?

Solicitors in our Courts, who have much business, have quite as much knowledge of the law as could be wanted for such a duty. I was going also to ask your Lordships, if it is not possible in some way to contrive more continuity and regularity in your sittings upon appeals. What with holidays and various interruptions of that kind, the Spring vacation, for instance, which was prolonged in Scotland by Lord Murray, for the purpose of enabling the Scotch counsel to attend here, is often lost. I remember beginning a case upon tithes before Lord Eldon upon the 10th of March, and I resumed my argument upon the 5th of May, or some such period, and there was no appeal heard in the interval. Surely all those old forms of short holidays and things of that kind ought to bend to the administration of justice. That the assistance of Scotch counsel is very important, I should think your Lordships who have sat upon appeals must feel; but that is only to be attained by taking Scotch appeals during the time when it is easiest for Scotch counsel to attend.

975. I presume it would be convenient to the Scotch counsel if, from the 20th of March to the 20th of May, the House sat consecutively upon Scotch cases?

Yes, it would be very convenient.

976. *Chairman.*] The suggestions you have made all bear upon the practice of the Court; I do not understand you to desire any alteration in the composition of it?

I should deprecate any alteration in its composition most earnestly.

977. Lord *Sundridge.*] Suppose there is an alteration in the Appellate Tribunal made on other grounds, do you think it would make any difference in the opinions of the Scotch people respecting it, if in such a re-construction the Scotch law were not represented?

I believe, if an individual were placed upon the Court of Appeal who was not in all other respects a Member of the House of Lords, it would take away from the authority of that tribunal, and its value in the eyes of the people of Scotland.

Scotland. And I am further satisfied that the people of Scotland do not desire that a Scotch lawyer should sit in Scotch appeals.

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978. You think it a positive objection to a Court of Appeal that it should have, as a member of it, a person who is specially cognizant of the law, which is to govern one portion of the cases which come before it?

Yes, for the reasons and to the extent I have stated, I do.

979. *Lord Privy Seal.*] Should you think so in reference to the English law; would it be a positive objection to a Court of Appeal sitting upon English law, that a person should sit upon it who was conversant with English law?

I have failed in making my views intelligible if I have not put your Lordships in possession of the distinction there is between the two cases. You cannot get a Court for English appeals different from what exists; but that if there had been the possibility of such a view, I believe the law of England would have been greatly improved. For Scotch cases we have had such a Court for 150 years, and the question now is, whether there should be a change.

980. *Chairman.*] I understand you to mean, not that it is objectionable that one or all of the members of the Court should well understand Scotch law, but it is objectionable that anybody should be appointed from among the Scotch Judges for that purpose?

Yes.

981. *Lord Privy Seal.*] If a man could be acquainted with Scotch law, not being a Scotch Judge, you would not object to him?

I should object to him still more; he would be an untried man.

982. You think, however, that the fact of being a Scotch Judge incapacitates a man to be a member of the highest Court of Appeal?

Not incapacitates: but his presence would be a great objection.

983. Lord *Lyndhurst.*] Did not Lord Lauderdale, in the time of Lord Eldon, interfere in Scotch appeals, and was not he conversant with Scotch law?

He had been in practice as a Scotch Advocate for five or six years, and was a very rising Advocate before his elder brother died; it was chiefly in one or two important cases that he assisted Lord Eldon; he made an admirable and learned speech in the Roxburgh case—so much so, that Lord Eldon said, "I am very glad you were not at the English Bar, for if you had been, you would be here instead of me."

984. Lord *Sundridge.*] Your objection is founded upon this, that the Scotch lawyer would be considered as ruling the decision of the House?

Yes; and if he did not rule he would be better away. I am satisfied with the Appellate Jurisdiction as now exercised, and I deprecate a sort of Committee Court sitting, and not the House itself, or any other Judges than Lord Chancellor and ex-Chancellors.

His Lordship withdraws.

The LORD JUSTICE GENERAL is called in, and examined as follows:

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985. *Chairman.*] YOU are Lord Justice General, and Lord President of the Court of Session?

I am.

986. You are at the head of the First Division of the Court, are you not?

Yes. I am at the head of the whole Court, and also of the Criminal Court.

987. How long have you been in that position?

I have been for about four years, namely, from May 1852, in that position; I was a Puisne Judge a year before that.

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988. Of course you were at the Scotch Bar many years previously?
From 1816 till 1851.

989. Earl of *Derby.*] Were you Lord Advocate?
I was Lord Advocate from 1842 to 1846. I was Dean of the Faculty of Advocates from 1843, till I was placed on the Bench, in 1851.

990. *Chairman.*] Of course you have had great familiarity in one character or another with the proceedings of the Scotch Courts, and appeals from their decisions to the House of Lords?
I have, as a Scotch lawyer. For a good many years of my practice at the Bar, before I was Lord Advocate, I did not practise much in the House of Lords; I found it inconvenient, and inconsistent with the extent of my practice in the Court of Session, to come frequently here; and after I ceased to be Lord Advocate I found myself in the same position. While I was Lord Advocate I attended a good deal, and occasionally before that.

991. Can you state to the Committee what is the opinion which your experience as Lord Advocate and a barrister, and subsequently on the Bench, has enabled you to form of the Appellate Jurisdiction of the House of Lords?
I believe that the Appellate Jurisdiction of the House of Lords, though in some respects constituted anomalously, has been of great advantage; I think it has done great service in its time; I think it has worked upon the whole for good. That opinion is particularly applicable to certain periods of its existence; and if the question be as to its having given satisfaction to that effect, I would answer affirmatively; if I am asked whether it has given all the advantages it might have given, and whether it is now constituted in the best and most satisfactory manner, I would not answer in the affirmative.

992. In what respects do you think it is not now constituted in the way in which it ought to be?
I think that matters have altered very materially since the jurisdiction of the House of Lords first began to operate in Scotch cases—I mean from the time of the Union; at that time, and for a long time afterwards, it was a very suitable tribunal, anomalously constituted no doubt; because the constitution of the tribunal was then held to be, that it comprehended even the lay Members of the House, though they did not frequently take an active part in the proceedings; still it was somewhat similar in constitution to the appellate tribunal which existed before in Scotland, and therefore did not in that respect present any startling novelty. At that time too the Courts in Scotland were not in the same repute with all parties that they are now as regards purity. The course of justice did not run quite smoothly, and there were suspicions of partiality, prejudice and party feeling, which were perhaps not unfounded as regarded the Courts and the Parliament of Scotland: many of the cases were cases on evidence as to matters of fact, and those feelings and suspicions operated more strongly in regard to them. I dare say it was expected, and rightly so, that the tribunal of the British House of Lords would be more free from those influences, and I have no doubt it was free from those influences. For a time I do not know that the judgments of the House of Lords, except in some important cases, were much noticed by the profession; there were no reports of its judgments in Scotch appeals at that time. The country was engaged in considering other things very much. The attention of the people was occupied more with the political state of the country; but after the close of those troubles, and during part of them, the operation of the jurisdiction of the House of Lords was conducted for a long course of years by a very eminent person, a most distinguished lawyer, who had brought a master mind to bear upon our system of jurisprudence, and devoted much of his time to the study of it—I mean Lord Hardwicke. After him, at intervals, there were some other great men; and under the guidance of those giants of the law, as I may call them, and they being under the pressure of an entire responsibility, the jurisdiction of the Court of Appeal was exercised in the best manner that the machinery admitted of. But in course of time the state of matters has materially altered. There is not the same feeling of jealousy of the Court below. I believe that appeals upon questions of fact are not now so numerous, in proportion. The matter has now come to be very much an appeal from one Court of Law to another tribunal, which has come, in the course of

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of time, to be settled by necessity into the form of a Court of Law, consisting of more than one Judge. I think that in this state of the matter, the tribunal which has to review the judgments of all other Courts of Law, and correct the errors of all other Judges, in point of law, should be constituted in a manner suited to attain that end. That, I think, involves not only that the members of it shall be men learned in the law, that is, trained in the profession of the law, but that they shall be men eminent in it, and of judicial minds. No doubt we have those two qualities at present, inasmuch as we have very eminent English lawyers, and of judicial minds; but familiarity with the principles and practice of the law of Scotland is likewise an element that should be specially secured to the tribunal that is to decide in Scotch appeals. I think further, that the Judges who are so to administer the law in the court of last resort should be persons whose regular attendance is to be relied on. They should be fixed and certain in their attendance, not occasional and uncertain. I think that the responsibility of supreme Judges ought to rest upon them as matter of duty, and not as a self-imposed responsibility which they may take upon themselves to a certain extent one day, and not on the next, and resume the third day. I think all those considerations should enter into the constitution of the Tribunal which is to review the decisions of all other Courts, and correct the errors of all other Judges, and which by so doing prescribes to them, not new laws, but the sound application of the existing laws, and thereby influences the administration of justice, and the adjudication of rights and interests, great and small, not merely in the particular causes that come before itself, but in future causes coming before any of the other Courts.

993. You would not think it necessary that in such a Court of Appeal upon Scotch cases, all the Judges should be Scotch?

I would not; but I think that the Court ought to contain within itself the skill and the strength to deal with the judgments of all the Courts which it reviews; I think it should possess within itself the elements of such light and knowledge as may be required for that purpose; I think, therefore, it should have in it, as a member of it, some person capable of contributing that information, which is necessary for properly dealing with the Scotch cases coming before it. In such cases the law to be administered is the law of Scotland, and I think the law of Scotland is not so sure of being rightly administered in a Court which does not contain some person not only having a general knowledge of Scotch law, but familiar with the law and practice, and with its analogies.

994. You heard the evidence of Lord Justice Clerk: do you think with him, that there would be any danger that one Scotch Judge might either be supposed to overrule the judgment of the others, the others not paying due attention to the case, or if overruled by them, that the decision would be less satisfactory in Scotland than it is now?

If he were a member of the Court, and on the same footing with the other members, I do not fear anything from that objection; I do not see why he should be supposed to overrule the judgment of the Court; I apprehend that all the Judges would pay attention to the case, and deliberate in regard to it; I think he would be useful in preventing or exposing erroneous analogies which might be suggested in the course of the pleading, or erroneous inferences deduced from fallacious analogies naturally suggesting themselves to minds more familiar with a different law, and consequently more likely to seek aid from that source than from a less familiar though more legitimate source, namely, the analogies of the law of Scotland, which is the law to be administered in Scotch cases. He would also have the means of explaining in consultation with the other Judges any points of Scotch law in regard to which they might have difficulties; I think that he would save the Court from asking the law from the Bar, and being perhaps misled by the answer they may receive, either imperfect in itself, or imperfectly understood; I think that in these and other ways he would be useful. Why he should overrule the Court I cannot understand: over the minds and views of the Judges of the Court, when brought to bear upon a Scotch case he might exercise considerable influence, but a preponderating influence he could only acquire, I think, by reason of his possessing fitting qualities for the exercise of that influence, having a proved and

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acknowledged mastery of the subject; and I think, in so far as that sort of influence might exist it would work for good. I do not think it likely that a sounder judgment would be obtained by excluding from the Court the very individual who has the best knowledge of the subject to be decided. The kind of parity so produced is not, I think, desirable.

995. If he did not rule the rest of the Court, would there be a danger that suitors in Scotland would think that he did?

I do not fear that either; I do not think the suitors would be blind to the actual state of the facts. They would measure the Judges by the judgments they pronounced, and the grounds they gave for them. I think a Judge gains a reputation by the judgments he makes before his name gives authority to the judgments. When he has so acquired reputation, there is some authority derived from it to his judgments.

996. What would be your suggestion as to the best mode of effecting your object; do you think that there should be a Scotch Judge permanently to form part of the tribunal?

My suggestion would be, that at all events one Scotch lawyer should be a Judge permanently in the tribunal: I do not suggest that one or more of the Scotch Judges should be taken up occasionally. Another view that has been thrown out is, that there should be a lawyer in an inferior position as a sort of assessor to the members of the Court. I do not approve of that; it is liable to many objections, and I think the public jealousy would justly be much greater of him than of a member of the Court.

997. Lord *Lyndhurst.*] From what class would you select that lawyer?

From the Scotch bench; I think he should be a person whose judicial qualifications have been already tried and ascertained. It happens sometimes that a very successful Advocate is not a satisfactory Judge; and in selecting a person for that very important and responsible judicial office it is desirable that his judicial qualifications as well as his forensic ones should have been tested and have given satisfaction.

998. Earl *Grey.*] It has been suggested, that the Scotch member of the tribunal should hold the Great Seal of Scotland; do you approve of that suggestion?

I think that is a matter of no great importance; I do not care what name he bears; it is quite a secondary matter. There would, however, be no harm in adopting the suggestion.

999. Earl of *Derby.*] You would not recommend taking a Judge who still remained upon the Bench?

No; I would transfer him to the tribunal.

1000. Lord *Sundridge.*] Do not you think there would be the danger of his losing such legal knowledge and practice as he may have acquired before?

I think not.

1001. Lord *Campbell.*] From your knowledge of the feeling which prevails in Scotland, do you think it would make any difference in the opinion of the Scotch people whether he belonged to the Whig party or to the Tory party, the Liberal or the Conservative?

I do not. The same opinion as I have expressed was entertained and announced by the Bar some years ago, at a time when the great majority of the Bar were of one view in politics, and when they believed, looking to the administration of the day and the circumstances of the case, that the person likely to be appointed was of the opposite politics.

1002. That consideration would have had some weight 40 years ago, probably?

It might; and that is in some degree involved in the answer I have already made, that party feeling does not now operate in regard to the administration of the law as it was supposed at one time to have done. In regard to the question that was put as to whether I think he would lose his legal knowledge by

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by being a member of the tribunal, my answer was interrupted—I think he would not. I can hardly think, if the practice in Scotch appeals is sufficient to make English lawyers fit to decide Scotch cases, it is too little to keep up the legal knowledge of a Judge who is already well grounded and trained in the principles and practice of the law of Scotland.

1003. Earl *Grey.*] We have been told that the number of appeals from Scotland has greatly increased by the feeling which exists that the decision in this House is almost a matter of chance; do you believe that feeling to exist in Scotland?

I have no doubt that a party who has lost his case in Scotland does speculate upon the chances of a tribunal which is not familiar with the law of Scotland, giving him a greater probability of success than he had in the other Court.

1004. And in particular he would so speculate in the cases in which the English law differs from the law of Scotland?

I should think so; for where the English law is the same as the law of Scotland, the chances of the appellate tribunal being ignorant do not exist.

1005. *Chairman.*] You have heard the suggestions of minor improvements made by the Lord Justice Clerk; do you concur in them?

I think some of those suggestions are important.

1006. Do you think there is any practical use in the case which is printed in each appeal; of course the Court of Appeal must have before it whatever was before the Court below on which they decided; but you are aware that, in addition to that, there are generally long and elaborate arguments on both sides, reduced to print: Lord Justice Clerk has suggested that that is not only not necessary, but tends to mislead?

As to its being necessary or useful, those Judges who have considered and decided Scotch appeals are perhaps better qualified to speak to the aid it has given them in arriving at a knowledge of the case and of the Scotch law applicable to it than I can be. When I was in use to write them, we thought they were calculated to aid the Court in coming to a right conclusion. I do not fear the risk of the Court being misled by them so much as my brother the Lord Justice Clerk does, because the Court has before it also the record, and it can itself see whether there is any wrong inference from the record. I do not think that any written argument given in that way would mislead them more than an oral argument in the same words.

1007. Lord *St. Leonards.*] Would not it be an improvement if the record were printed by itself *qua* record, and then in a separate part any observations and arguments which the parties might think fit to advance?

I understand the record is printed separate from the argument, and generally prefixed to the case. They ought not to be intermixed.

1008. Earl of *Carnarvon.*] Do you think that in Scotch appeals the expense is considerably greater than it ought to be—we have been told that in English appeals the process is an exceedingly expensive one—do you think in Scotch appeals the expense is greater than it ought to be?

I have not adverted to that. If I had been aware of such an inquiry, I might have been possessed, perhaps, of some information or views in regard to it. I dare say unnecessary expense may be caused. A case may be argued at greater length than it ought to be, which detains the counsel and the solicitors, perhaps for several days, and so greater expense is caused than ought to be.

1009. There is no practical suggestion which occurs to you, with a view to reducing the expense at present?

No; unless it shall be thought expedient to dispense altogether with the printed cases. The presence of a Scotch Judge might also shorten the arguments, and in that way save expenses.

1010. Lord *Sundridge.*] Is it your opinion that if, to a certain extent, there is a re-construction of the Appellate Jurisdiction of the House of Lords, there

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will be any considerable dissatisfaction raised in Scotland if the Scotch law is not personally represented in the newly constructed Court?

I am of opinion, from what has passed in the two great law bodies in the Faculty of Advocates upon more than one occasion, and in the Society of Writers to the Signet, and from intercourse I have had with persons talking on the subject, that there would be much dissatisfaction.

1011. And you think that would extend to the suitors who are represented by the Faculty and by the Society of Writers?

Such is my belief.

1012. Lord *Lyndhurst.*] Scotland would feel that she was neglected in the formation of a new tribunal, from which she was entirely omitted?

Yes.

1013. Lord *Campbell.*] Suppose there is to be a re-construction of the Appellate Jurisdiction of the House, so that there shall be permanent Judges to hear the appeals; would it be proper that they should be a Committee of the House, to be called the Appellate Committee, but that the hearing should continue to be nominally before the whole House, as a body?

I do not feel very competent to express an opinion upon that subject. I think if there were a permanent law Committee to hear such cases it would be satisfactory; they still being a Committee of the House, and preserving the jurisdiction of the House of Lords, which I think gives a dignity to the tribunal which it would be unsatisfactory to dispense with.

1014. Earl of *Derby.*] Do you think it would be objectionable to have upon that tribunal persons, not being Members of the House, to assist the House, and to take part in the decision?

I think that would not be satisfactory.

1015. Duke of *Somerset.*] When you say that one Member of the Appellate Tribunal should be a Scotch lawyer, do you form any opinion as to the number of which the tribunal should consist?

Yes; I think a tribunal to review the judgments of all other Courts, as this would be, ought to consist, I would say, of not less than three nor more than five Members, so as to ensure the attendance of not less than three, and never to be too numerous.

1016. Lord *Sundridge.*] You would have them attend constantly, and certainly?

I have said so.

1017. Do you think it a matter of importance that the judicial Session should be longer than the legislative?

I think it would be satisfactory that the arrears should, if possible, be wiped off within the Session.

1018. Lord *Campbell.*] Are there not cases in which it is of great importance to have an immediate decision by the Court of Appeal, such as cases respecting patents, and matters of that kind?

No doubt there may be some such cases.

1019. Duke of *Somerset.*] When you say there should be a Scotch member of the tribunal, do you think, if by accident the Scotch member is not present, the tribunal should not proceed to consider Scotch cases?

I think it would proceed at a disadvantage in considering Scotch cases.

1020. *Lord Privy Seal.*] Should you think it desirable that the reasons for either reversal or affirmance of the decree of the Court below should be assigned, and if assigned, should each member assign his reasons separately?

I think that is a question upon which there may be room for difference of opinion: my own opinion is, that there ought to be no fixed rule upon that subject. I think in some cases it is not necessary that each Judge should give his opinion; I think it is right that they should sometimes, and perhaps frequently, do so, in order that the public may form an estimate of the attention which is bestowed upon the cases, and the ability with which they are discussed;

discussed; but to make any absolute rule would, I think, be inexpedient; I would leave it to the judgment and discretion of the Court. *The Lord Justice General.*

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1021. Earl of *Carnarvon.*] Do you think it matters much whether the opinion be committed to paper or delivered verbally?

No, I do not; there may be more precise language when a person sits down to write, and corrects carefully, than when he speaks without that assistance; but the meaning of the opinion may be made perfectly clear in oral statement, and I suppose any verbal correction is allowable in revising the report.

1022. *Chairman.*] Should you think it desirable, if the Judges of the Court of Appeal differ, that in delivering their opinion that opinion should be in writing?

I think, if it is accurately stated and reported, it is of no great consequence to the settlement of the law whether it has been committed to paper or not before being delivered.

1023. Is not the law more accurately and precisely settled by a Judge sitting down in his library and writing, and correcting what he has written, than speaking extempore?

No doubt his language will be more accurate and precice when he writes and corrects than when he speaks extempore, though the reasoning and the conclusions would be the same if he has studied the case with the same care; and I suppose he would have an opportunity of doing so. A Judge who has to give his opinion in a case where there is difference of opinion in the Court will probably be more anxious and more careful in revising his own views and opinion than in other cases.

His Lordship withdraws.

Ordered, That this Committee be adjourned to Thursday next.

Die Jovis, 17° *Aprilis* 1856.

LORDS PRESENT:

Lord Chancellor.	Earl of Ellenborough.
Lord President.	Viscount Gordon.
Duke of Somerset.	Lord Redesdale.
Marquess of Lansdowne.	Lord Lyndhurst.
Earl of Derby.	Lord Abinger.
Earl Stanhope.	Lord Elgin.
Earl of Carnarvon.	Lord St. Leonards.
Earl Grey.	

THE LORD CHANCELLOR in the Chair.

Evidence on the Appellate Jurisdiction of the House.

The Right Hon. Sir John Romilly.

17th April 1856.

The Right Honourable SIR JOHN ROMILLY, Master of the Rolls, is called in, and examined as follows:

1024. *Chairman.*] YOU have held the office of Master of the Rolls for the last five years?

I have.

1025. Before that, you were Attorney and Solicitor-general?

I was.

1026. When were you called to the Bar?

In June 1827.

1027. And you practised more or less at the Bar of the House of Lords?

I did. Latterly I had some considerable practice at the Bar of the House of Lords.

1028. Does your experience, while practising at the Bar of the House of Lords, enable you to give an opinion as to how far that tribunal was or was not satisfactory to the suitors?

I do not think that it was entirely satisfactory to the suitors, but I think that arose principally from defects totally independent of the constitution of the tribunal, such as their sitting in the nature of a House addressing one another in that form, and not sitting in the robes of magistracy. If they had sat with all the forms of a Court of Appeal, I think that it is probable that a great many of the defects that used to strike persons would have been much smaller. I think also there has been of late a great disposition to exaggerate the defects of the judicature of the House of Lords.

1029. Has anything ever occurred to you that you can suggest as likely to improve the tribunal?

What occurred to me principally upon the subject, with a view to an alteration and reform of the system, was this: I assume that certain admitted errors on all sides would be redressed, such as for instance that the defects which I have just mentioned would be put an end to; that the Court would sit like a Court at ordinary times, and not be liable to interruption, and that it would sit during the legal year, and that a diminution of expense in the shape of fees would be made; those things I assume to be admitted on all sides, by which it might be made as cheap and as expeditious as any other tribunal. The point on which my opinion differs from that of those persons whose opinion I have hitherto heard is this: it appears to me desirable, both in a constitutional point of view, and also for the purpose of making the best Appellate Tribunal that can be made, that the Appellate Tribunal should not consist exclusively of lawyers. In the first place I assume, as an admitted proposition, that it is very desirable that the Appellate Jurisdiction should be continued to the House of Lords in its essence, and not merely in form; then I feel satisfied that a very slight

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slight consideration will convince any one that if you employ solely professional lawyers in the Appellate Tribunal, it is mere delusion to say that that is a part of the House of Lords. They are merely persons whom you choose to make Peers for the purpose; and the House of Lords, in its character of either a Legislative Assembly or a Judicial Assembly, will derive no weight or authority from the fact that some of its members belong exclusively to the legal profession; and although the House of Lords, in point of form, records the decision, everybody would feel that the House of Lords had practically given up its functions in that respect.

1030. Lord *Lyndhurst.*] It is quite lately that that has been done?

Quite lately; and I will state presently why I think the old system would really be beneficial, if you can preserve the essence of it. The plan I would propose is the following: I would make a tribunal consisting, say, of five persons,—I think the number is not very material,—three should be professional lawyers, and two should not be professional lawyers, but should be simply what may be called lay Peers. The Lord Chancellor should preside. I presume that the other four should be placed upon exactly the same footing. They should be all paid the same salary, with a retiring pension to them after such time of service as might be thought desirable, say 10 years, or the like. I assume of course, in suggesting this, that it would be possible to find Peers who would be willing to undertake that duty. I do not at all doubt the possibility of finding persons who would be competent to perform the duty. The difficulty would be, in the first instance, principally. You would select persons who possessed considerable acquired knowledge, and a judicial turn of mind, which is by no means an uncommon qualification, but one not very difficult to be discovered, and who would be willing to devote their whole time and attention to that particular subject. Even if you had a difficulty, at first, in the constitution of the tribunal, which I doubt whether you would have, you would not after a time, because before long you would probably find in the House of Lords young men who would devote themselves to that species of study, and who would obtain the education that would befit them to perform these particular functions. Then the question is, how such a tribunal would perform these functions in the first instance. Now you have to consider what are the questions which are brought before the Court of Appeal. They are questions of law or of fact, or, which are the greater part, mixed questions, both of law and fact. With respect to questions of fact, a man of sense accustomed to judge of the value of evidence is as competent to form an opinion upon those questions as any person who has had a legal education, except so far as that legal education may have taught him to weigh the different species and weight of evidence. It is also to be observed, that cases of appeal are much more easy to decide than cases in the first instance; and it is a common observation that they are so. The reason of this is obvious; before the first hearing no one knows the points to be made on the other side. And the mere conflict of arguments strikes out a certain number of new lights, and a great many things are suggested, so that a case leaves the Court in a totally different form from that which it came into it. All that sifting has gone on before the case comes to the Appellate Tribunal; and it is rare—I do not say that it never happens—but it is rare that any very new lights are thrown out, or that many new views of the case are suggested in the case upon appeal. So far as it is necessary to have a knowledge of what I may call the particular and technical details of the law upon the subject, you have it argued before you by counsel of great ability, who have taken great pains to make themselves masters of the subject, and who, I may say, without any impropriety towards the Judges, generally from necessity come better prepared upon the particular subject than the Judges themselves can possibly be. Now, in that state of things, the only question is, whether a person who has not made the law his professional study is not competent to form a correct judicial opinion upon the merits of the case. You are to remember, also, that the great object of an Appellate Tribunal is to make the law as uniform and as perfect as you can—rather to extend large principles, and not to break down principles into particular cases by refinements and technicalities; and you want rather men of extended minds and enlarged views, with accurate judgment, than mere professional lawyers. The tendency of a person's mind who has become extremely well acquainted with any particular branch of the law, especially the technical details of it, is to give too much weight and effect to them.

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them. It is every day's experience in our profession to see the delight that persons of great ability, who have made themselves masters of the technical details of any branch of the law, take in it. I have myself seen, and everybody must have seen, repeated instances of men of cultivated understandings, whose greatest delight was when by a technical objection they had defeated the merits of a cause. That is a defect which is specially to be guarded against in a Court of Appeal. All Courts, to some extent, make law; but Courts of Appeal more than any others; because the Court of Appeal makes a guiding decision for all the Courts below it, which Courts of co-ordinate jurisdiction do not. Now, in my opinion, the worst species of tribunal you could have for a Court of Appeal would be to have a collection of persons who should be intimately acquainted, each of them, with one particular technical law; I use the word "technical" in the sense of merely devoting themselves to one particular system of positive law, the subject of which may possibly come before the tribunal. In the result, you would probably have each person deciding the case which related to his own particular branch of law; and if you had but one such person upon an Appellate Tribunal, consisting in other respects of other persons not so constituted, I feel satisfied that he would either become a mere cipher, or that he would have an injurious effect upon the rest; that whenever he differed from them, he would either induce them to follow his opinion, which would be for the most part of a nature tending to break up general principles, or that he would simply give way to them: that is the view that I take of the question generally, with respect to the mode of constituting such a tribunal. Now, I think that experience shows that that is not an incorrect view: I would refer to the appeals from Scotland to your Lordships' House. I have had very little experience in those, but I have conversed with many persons of great knowledge upon the subject. I beg leave to repeat the effect of a conversation which I had with a gentleman whom many of your Lordships will remember I have no doubt, Mr. Cranstoun, who was one of the Lords of Session, as Lord Corehouse: I remember his telling me that he thought nothing had been more advantageous to the law of Scotland than the fact that since the time of Queen Anne there had been an appeal to the House of Lords; that it had exercised a most beneficial influence. I asked him whether it would not have been better if there had been a Scotch lawyer in the Court of Appeal: he said, no; he was of opinion that it would have been worse. I remember distinctly his stating to me his view, that the effect produced by the Appellate Jurisdiction of the House of Lords had been most beneficial with respect to the administration of the law in Scotland. And I remember Mr. Adam, the late Accountant-general (whom several of your Lordships will also remember), expressing a similar opinion to that when I mentioned to him the conversation I had had with Lord Corehouse. Now it is obvious that in the House of Lords, while sitting on Scotch appeals, we have had an Appellate Tribunal, constituted of men of very cultivated minds, but without any very minute knowledge of the particular Scottish law which they had to administer—certainly less so than those Judges whose decisions they revised. There are other instances of the same sort. I think the Judicial Committee of the Privy Council is another instance. The Judicial Committee of the Privy Council exercises its functions to the high approbation of everybody who is competent to express any opinion upon the subject; but they are simply gentlemen who have studied, no doubt, the subject of general jurisprudence very intimately and accurately, and possessed of great judicial qualities; but they cannot be supposed to be much acquainted with the Mahommedan law, or the Hindoo law, in which they administer daily, or with the Dutch law, or the French law. To some extent they possess a general knowledge of those different systems of law, but not in any detail; yet they administer the law, and perform their functions with the greatest advantage and success, and to the approbation of everybody who has had an opportunity of examining their decisions.

1031. They have been all trained to the law, and they possess legal habits?

Yes, that is so. It is a question, I think, not difficult to answer, whether persons who have not practised at the Bar can, without difficulty, be trained properly to perform judicial functions. I think, in fact, that is in a great measure the theory of the English judicial system; I think the system of juries involves it. It may be said, that juries are merely to be judges of the fact; but in a great number of cases, it is totally impossible to

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separate the fact from the law. It is true that in the result, the jury take their opinion of the law from the Judge who presides; that is to say, that for the most part they generally do so; but, in fact, they decide a great many questions of law and of fact which are mixed together, and, generally speaking, the juries are of considerable advantage. It is also to be observed, that it is not a new thing to have laymen acting as Judges in this country; it is notorious among the legal profession. I remember, as a young man on the Circuit, hearing repeated praise of different Chairmen of Quarter Sessions for their judicial faculties. I remember well hearing great praise of the late Lord Wharncliffe as Chairman of the Quarter Sessions of the West Riding of Yorkshire; he was spoken of by some of the Bar who went the Northern Circuit, as being as good a Judge as any that sat in Westminster Hall. Laymen in that position have a great many judicial functions to perform; and I see no reason why a person who has not practised as a lawyer at the Bar, and who is competent to perform these duties should not also be competent to perform judicial functions in an appellate tribunal. And in answer to the remark which may be made, that this is contrary to the general opinion, I may refer to a person who undoubtedly indulged in many unusual theories, but who had a great amount of judicial knowledge and experience, Jeremy Bentham. His plan of making a Judicial Tribunal was, practically, to exclude lawyers altogether from it; he thought that the judicial quality of the mind was incompatible with that exercised by an advocate. It is also to be observed in that point of view, that there are two faculties always to be possessed and to be exercised by any one in order to constitute him a good Judge; one is, that he must have an accurate knowledge of the subject on which he is to decide; the other is, that he must have a judicial faculty of mind; that is to say, he must have the power of apprehension, and the power of balancing and weighing the arguments upon the opposite sides, with a total indifference as to the result; and it is important in considering this subject to bear in mind that the former of these faculties you can estimate in a practising lawyer, but not the latter, of which you are wholly ignorant till he is made a judge. I refer to these things for the purpose of showing that this is no new idea. The old theory of the House of Lords itself appears to me one which is perfectly correct in theory, although it is one which, from the change of society, it is totally impossible to carry into effect now. It was, that the House being assembled, and being then not very numerous, the case was argued before it by counsel thoroughly versed in the matter. Then, with the Lord Chancellor, a professed and experienced lawyer, presiding, the case was discussed and considered by all the Lords, after which they came to a decision upon it; and if they wanted any special information upon any particular technical branches of the law, they referred to the Judges of Westminster Hall to assist them in that respect. Now I admit it is not possible to do that now, because the number of appeals, and the size of the House of Lords, would render it totally impossible; but the spirit of the thing would be preserved if you appointed a certain number of persons to represent, as it were, the lay portion of the House of Lords in the Judicial Tribunal. I feel satisfied also that you would have very little difficulty in effecting it; even if you had a difficulty at first, you would have very little difficulty afterwards in getting persons who would make themselves fully competent to perform the functions and the duties of a Judge, and who would devote themselves to the study of jurisprudence, and give up their time and attention to the subject; in fact, I consider that the lay element in an Appellate Tribunal is a beneficial one, as it has a tendency to obviate what I consider the greatest defect of an Appellate Tribunal, namely, the breaking up of great principles into small and minute details, and which, undoubtedly, the Judicial Tribunal of the House of Lords has generally endeavoured to avoid. Then I would observe that I look at the consequences of the opposite course with very considerable alarm. It is not more difficult to administer the law than to reform the law, and if the House of Lords admits, practically, that it is incompetent to administer the law, the next step may be to say that the House of Lords cannot, with propriety, reform the law, and that any Bill of that description must previously undergo the revision or consideration of some legal man before it can be properly submitted to the House of Lords; in which case they would be giving up another of their functions. It appears to me that it is a delusion, not intentionally, but naturally, propagated by lawyers, that none but a legal mind is competent to decide upon a legal question;

question; and I believe that men of cultivated understanding, and of plain common sense, who would devote their time and attention to the subject, are quite competent to perform the duty, and that they would make a useful element in any tribunal which is constituted for the purpose. Then I assume that —of which I have no means of judging but from general principles—I assume that several persons would be found in the House of Lords who would devote their attention to the subject, and would become candidates for such an office, for it would be a very worthy object of ambition. I do not want to express any opinion upon the subject as to how they should be appointed, or as to whether they should consist of more or fewer. No doubt the principle would be more complete if they could be appointed by election by the House itself, because they would then completely represent the House of Lords. It is not for me to express an opinion as to whether the House of Lords could be safely entrusted to select the very best persons without any favour or affection, and without any political motive or feeling; if not, of course they should be appointed by the Crown. But I think that anything short of some such plan as this is virtually and obviously (conceal it as you may) a mere delegation to others, a giving up of its functions by the House of Lords; and that at all events the view which I have suggested is worthy of being considered before you come to a final determination upon the subject.

1032. Earl of *Derby.*] With regard to the last point, is not the delegation of power as complete if the judicial duties are devolved upon a certain number having the lay element amongst them, as if they are devolved upon a similar number, with the additional requirement that they should be professional lawyers?

Undoubtedly; but it is a delegation to a body consisting of lay Peers, and constituted by the House of Lords; they are then representatives of the House of Lords, and it is a delegation to a part of themselves; while, if it be a delegation to a tribunal consisting merely of lawyers, it is a delegation to strangers introduced solely for this purpose.

1033. Earl *Stanhope.*] Do you think it probable that such a tribunal as you suggest would inspire sufficient confidence when it came to reverse the decisions of experienced Judges?

I think it would. I think the Bar express their opinions of the effect of decisions without the slightest favour or affection, wholly uninfluenced by any consideration other than what they think is true; and if a decision be really well reversed, I have no doubt it will command the approbation of the Bar, or at least of the majority of the Bar, and also of the public.

1034. Would there not be a preliminary feeling against it, if a decision which had been made by experienced lawyers were reversed by men who had no judicial training?

I doubt whether that would be so; they would give their reasons for their decision, and their reasons, if my view is correct, would command respect. As the tribunal is at present constituted, it frequently happens that a fewer number of Judges in the House of Lords reverse the decisions of a greater number in the Court below.

1035. Lord *St. Leonards.*] Supposing the tribunal to be constituted as you have proposed, and giving the lay Lords so appointed credit for good sense and general knowledge, and the application of their minds to the study of the law, and supposing a difference of opinion to arise in any case, and that the lay Lords were to attempt to support their views against those of the lawyers who were sitting with them, do you think they could do that, so as to satisfy the profession?

I think so.

1036. Whence would they derive their reasons?

They would derive their reasons from the same source as the others.

1037. You spoke of dealing with facts; but even with regard to that, is not the power of dealing with facts one which increases very greatly by practice, so that a man who at starting will have but a very small power of dealing with facts, will by a long course of practice obtain great power in that respect?

Undoubtedly it would require time more or less, according to the difference of minds; but it is to be observed, that according to the constitution of the tribunal that I have suggested, there would be a majority of lawyers upon it.

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1038. *Chairman.*] You instanced the satisfactory mode in which justice is administered in the Judicial Committee of the Privy Council, where systems of law have to be administered with which none of the members of the Court have been at all familiar previously, and you think that affords an argument that the same result would happen in the House of Lords; but is there not a very great distinction between the two things, inasmuch as though much of the law which they are called to administer is new to the persons who are to act as Judges in the Judicial Committee, yet the habit of investigating legal questions and legal principles is not new to them?

That, undoubtedly, is an objection that would be fatal if you were to change the Judges every day; if you had a Court similar to what now exists in the House of Lords, a rota of Peers constituting the tribunal; but the only question is how rapidly a man can acquire that knowledge. It is not the mere fact of being with a conveyancer for three years, and being called to the Bar, that constitutes a man a lawyer; it is the study; it is the time and attention and reading which he gives to the subject. It is to be observed that a more instructive lesson cannot be given to a person than that of hearing a case argued before him which he has to determine; when he naturally listens attentively to everything relative to the subject, and is necessarily instructed by adverse parties as to all the law upon the subject on which he wishes to enlighten himself. Supposing you appointed to-morrow two Peers, who had never thought upon the subject, the probability is, that they would not venture to express any opinion for some considerable time; but in a very short time they would, by study and the exercise of their minds, feel competent to decide upon the subject brought before them and would be useful Judges. Therefore, the only question really is the time that would be required for the purpose.

1039. Lord *Lyndhurst.*] In various Acts of Parliament it is said that certain offices shall be held by barristers of so many years' standing, generally seven or ten years; and those are offices very far inferior in responsibility to that of exercising the Appellate Jurisdiction of the House of Lords; does not that show the estimate which the Legislature has formed of the sort of time that is required in order to obtain the discipline necessary for forming the mind to legal pursuits and decisions?

Yes; but your Lordship is, doubtless, aware that it is a very imperfect estimate; it often happens that one person in the course of two years knows much more than another does after ten years; we know this by constant experience. It is also to be further observed, that this is quite a modern introduction of the Legislature. For the office of Lord Chancellor, and the office which I myself have the honour to hold, there is no qualification at all required.

1040. Earl of *Derby.*] You assume, as an indisputable fact, that the new tribunal, whatever it be, should sit during the whole legal year; you think that is essential?

I think that is essential.

1041. Are you also of opinion that lay Peers would be found who would be willing to devote their time in that manner?

That is a question which I am not competent to answer. I have assumed that; but that is a question which would have to be asked of Members of your Lordships' House.

1042. Is not it an assumption upon which the practicability of your scheme turns?

Yes, it is essential to it, undoubtedly.

1043. Lord *Lyndhurst.*] I understand you to say that there should be a salary?

Yes, a large salary.

1044. So that it might be an object for many young Peers to study the law, with a view to occupying the situation?

Yes; the two lay Peers should stand upon the same footing as the other Peers constituting the Court. Then, if you give 5,000 *l.* a year to the law Peers, I should give 5,000 *l.* a year to the lay ones. Your Lordships are aware, that in the time of Selden and others, it was the common practice of the gentlemen of England to study the law; it was considered a worthy object of their attention, and a necessary part of their education.

1045. Lord

1045. Lord *St. Leonards.*] Are you of opinion that the law Lords should continue to give their assistance to the House?

Yes.

1046. Do you think that the law Lords would be willing to sit in this House during the whole year?

The whole of the legal year.

1047. Do you think they would be willing to sit beyond the sittings of the House itself?

I cannot tell; I have no means of judging of that; I have assumed that that would be done.

1048. Earl of *Derby.*] You do not assume that the law Lords are to receive any extra salary for this greater amount of attendance?

No; I have assumed all these things as practicable; if they are not practicable by reason of the want of funds, I would supply the funds necessary for the purpose.

1049. Would you be willing yourself to volunteer to sit during the long vacation?

No; I said "the legal year." That would of course exclude the long vacation.

1050. Lord *St. Leonards.*] Are you of opinion that the quantity of business that comes before the House would require these continuous sittings?

I do not know that it would; I should restrict my observation in this way: that the Court of Appeal should sit the whole of the legal year, when it was necessary to keep down the arrears. If, in point of fact, all the cases were heard up to within six months after they were presented, I do not think it would be necessary for the Court to continue sitting. I do not think it necessary to go beyond that.

1051. *Chairman.*] Suppose experience were to show that the whole of the cases set down by the 1st of February could be got through by the beginning of August, would you think it essential to keep the Court of ultimate Appeal sitting through November and December, merely because new cases might have arisen in the interval?

No, I should not; all that I mean is, that the Court should sit a sufficient time to enable it to keep down the arrears.

1052. So that all the cases set down at the beginning of the Session, say in the month of February, should be disposed of by the end of the Session?

Yes.

1053. Lord *Lyndhurst.*] Are you of opinion that it is desirable that an appellant should have time to cool before his appeal comes on to be heard, so as to give an opportunity to abandon it, if, upon consideration, he shall think it advisable to do so?

I feel considerable doubts about that. I think that the delay in hearing an appeal is oftener made use of as an instrument of oppression than as an instrument of justice.

1054. But supposing the delay is not too great?

It would be a question of degree; but six months appears to me not too long.

1055. *Lord President.*] Do you think that the House of Commons would be willing to vote 5,000 *l.* a year to each of the two lay Lords for assisting in the Appellate Jurisdiction?

I have no means of judging; I should think that if the plan were found to be useful, there would be no difficulty in getting funds for the purpose.

1056. Lord *St. Leonards.*] Would you submit the lay Lords to any previous examination before they were appointed on the Appellate Tribunal?

Certainly not.

1057. Duke of *Somerset.*] You state that one great object of an Appellate Tribunal is to make the law uniform; do you think that the introduction of lay Peers would tend to make the law more uniform?

I cannot state more than I have already said on that subject; I think it would have a tendency to extend the prevention of the breaking up of great principles into little refinements and minor details, and that it would be of

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great advantage in consulting the professional lawyers to make the thing plain and intelligible and reasonable to persons not mere professional lawyers.

1058. You have observed instances in which questions of law have come before Committees of the House of Commons; do their decisions tend to make the law uniform?

I have had very little experience in Committees of the House of Commons; I never practised but once or twice before Committees of the House of Commons, and I am not competent to form an opinion upon that point.

1059. Earl of *Derby.*] Have not you sat upon Committees of the House of Commons?

Very rarely; in consequence of being in active professional business I was generally excused; I never sat upon an Election Committee in my life; of course there should be no political element in the case.

1060. Lord *Lyndhurst.*] In Peerage cases the lay Lords interfere, do not they?

Yes, they are required to attend, and the questions are put to the vote.

1061. Duke of *Somerset.*] It is important in forming an Appellate Tribunal to obtain men who possess judicial qualities, is it not?

Yes.

1062. If you select from other Courts Judges who are known, you can ascertain beforehand what their judicial qualities are, can you not?

To this extent you can, that is, you can estimate the amount of their legal knowledge, but you have no means of judging of their power of balancing and weighing evidence and arguments—of that which I have called the judicial faculty.

1063. If, therefore, you select Judges, you can, to some extent, more or less, secure the getting men who possess certain judicial qualities?

To some extent you can, that is, to the extent of ascertaining the probable amount of their legal knowledge.

1064. But if you take laymen who have never exercised judicial functions, you cannot tell beforehand how far they may possess those qualities?

No; but so far as regards the highest judicial quality, until a man is made a Judge, whether he is a layman or a lawyer, you are equally in ignorance.

1065. Therefore, so far, that would be a disadvantage in choosing a layman as compared with choosing a Judge, would it not?

It might be so, unless you should be of opinion, with many jurists, that the judicial faculty of the mind, as distinguished from the possession of legal knowledge, is more likely to be found amongst layman than amongst lawyers; if, however, a dread of appointing an untried man to be Judge should be thought insuperable, to obviate that objection, you might resort to the plan which I mentioned before, as being Jeremy Bentham's plan of constituting Judges. His plan was to make Judges rise in gradation according to the qualities they had shown, and that the Judges in the first instance should have the power of appointing deputies, as the Judges now have in the County Courts, and that then you should always select your Judges from among the deputies who had shown that competency; I do not recommend that plan, but that was Jeremy Bentham's plan, and might obviate the objection against selecting untried persons.

1066. How could you apply that principle to lay Peers?

In this way, upon any occasion when one of the lay Peers, might not be able to sit, he might appoint some other lay Peer who had studied the subject to take his place—of course upon the same sort of condition as in other cases of deputies, upon payment of part of the salary.

1067. Earl of *Derby.*] I presume you intend that these Judgeships held by lay Peers should be held for life?

Yes; that is to say, held of course during good behaviour; and I think there should be a retiring pension after ten years, or some narrower period.

1068. If a person were appointed who, not having had any previous experience in a judicial capacity, turned out to be a very inefficient Judge, you would, in that case, have no means of improving the tribunal?

No more than you have at present. You must remove him as you would any other Judge; if the opinion of every body was that he was wholly incompetent, he

he would resign of himself. I do not think that, practically, you would find that a person who was positively incompetent could remain there long, nor do I think it probable that such a person would be appointed.

1069. Earl of *Ellenborough.*] Could not what you propose be practically effected in time in this manner, without any alteration of the law; namely, by an understanding that certain offices in the gift of each successive Government, for instance, those of Lord President of the Council, Lord Privy Seal, and Chancellor of the Duchy of Lancaster, offices with little or no business, should be given to such lay Peers as have qualified themselves by a knowledge of the law for sitting, attending to hear appeals in the capacity of lay Lords; would not the effect of that be, that some Peers on each side of the House would give their attention to the subject who might prove themselves, at no distant period, competent to hold those judicial offices, in the same way that noble Lords now qualify themselves for holding the office of Chairman of Committees?

Yes.

1070. There would, however, be this inconvenience, that they would be changed upon a change in the Government, in the same way as the Lord Chancellor is changed?

Yes; I think it is of great importance that the Judges should be permanent, and that they should not go out with the change of the Government.

1071. Earl *Stanhope.*] Supposing the tribunal, however constituted, to consist of three or of five persons, and supposing the minority to differ from the judgment assented to by the majority, do you think it expedient that, as at present, the Peer or Peers in the minority should give expression to their dissent, or that one Peer should give the judgment as the judgment of the whole, without any other person expressing any dissent?

The practice in the Privy Council is, not to express any dissent, whatever may be the dissent in the tribunal; one of the members of the Committee of the Privy Council gives the judgment, and there is no contrary opinion expressed; but at the same time it cannot be denied that, upon looking through the books, the opinion of the minority has very often been the opinion which subsequently has been thought of the greatest weight, and of very great value, and it would be a great pity if the information contained in it had been lost. My own opinion is, that the dignity of the Appellate Tribunal is best upheld by there being no difference of opinion apparent in it; and that it would be better that they should discuss the matter among themselves, and that the decision should be given as the decision of the whole body.

1072. Lord *St. Leonards.*] But supposing that, after discussing the matter between themselves, they still disagree?

Ultimately, there must be a decision of the case one way or the other.

1073. What is your opinion of the effect of each of those two courses upon law, as a science? Supposing two Judges to have heard the case, and that they differ in their opinion upon it, do you think that in that case the one who is for affirming the decision of the Court below should state his opinion, and that that should be given as the opinion of both, or that each should state his own opinion, and his reasons for it?

It is more satisfactory to lawyers, undoubtedly, that they should have the reasons of both.

1074. Is not that course the most beneficial to the law, as a science?

I am not sure that it is, having regard to the dignity of the Appellate Tribunal. I think it is desirable that they should have all the differences sunk in the judgment that is given.

1075. Earl *Stanhope.*] Does not the practice of the Judicial Committee of the Privy Council, in this respect, appear to have given great satisfaction?

I do not know that I have heard many opinions expressed upon that particular point; but there is greater effect given, no doubt, to the weight of its decisions from your not knowing of any difference of opinion.

1076. Marquess of *Lansdowne.*] Is it not the fact that one reason why the judgments of the Judicial Committee of the Privy Council have for many years past given more satisfaction than they did before, owing in part to the circumstance of the Court having ceased to be composed in any degree of lay Lords?

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Indeed I cannot say so. I doubt whether that is so. I rather believe that the regularity of their sitting, the grave and judicial manner of hearing the cases, and the circumstance of giving reasons for their judgments, has led to this result.

1077. *Chairman.*] You spoke of the advantage derived to the Bar, at all events, from knowing the opinions of the minority, where there is a difference of opinion. Does not that observation rather apply to the opinions expressed in the Courts from which the parties may appeal than to the Court of ultimate appeal?

Certainly.

1078. Earl of *Carnarvon.*] Might there not be this objection to your scheme, that after the lay Lords have laid aside, as it were, their judicial functions, there might be a difficulty, with regard to public opinion, in resuming them afterwards?

I think not; I do not see any difficulty.

1079. Might it not have the appearance of having at one time regarded ourselves as incompetent to discharge those functions, and then resuming them at a later period?

No; I do not see that. Unfortunately, as the House is at present constituted, with the species of attacks made upon it, all the blame is thrown upon the House as a body. Yet, practically, the House, as a body, takes no part whatever in the appellate functions of the House.

1080. Earl of *Ellenborough.*] How long is it since the House, as a body, ceased to take part in the appeals? Are you aware what was the last occasion on which lay Peers interfered in any way in judicial matters?

No; I cannot say. There are several cases in Lord Thurlow's time—there is Fletcher *v.* Lord Sondes, in the time of Lord Eldon, which the House decided against the opinion of the Lord Chancellor.

1081. Lord *Lyndhurst.*] You are aware of the two cases which Mr. Macaulay mentions in his History, and which were most disgraceful to the House; for instance, the writ of error in Titus Oates's case, which was argued by Somers, and upon which there was a conflict between the two Houses?

Undoubtedly, the moment you get the political element in a judicial tribunal, you put an end to anything like judicial functions. They are no longer, in fact, acting as Judges, but acting as a political body the moment that arises. But the cases of Fitch *v.* The Bishop of London, and of Fletcher *v.* Lord Sondes, were not political cases: they were cases in which the clergy took a great interest.

1082. *Chairman.*] The Bishops turned the vote, did not they?

The Bishops turned the vote in both those cases. They were cases with respect to the validity of bonds given to secure the resignation of livings at a required time.

1083. Lord *St. Leonards.*] After what you have said, I scarcely need ask you whether, if your plan should not be adopted, you would attempt to take away the power of the lay Lords as it now exists, to come in if they please, and vote upon any important case?

I should take that away. I do not see the advantage of it. I think that the thing that would bring the House of Lords into the greatest discredit as a judicial tribunal, would be the interfering in judicial decisions in political matters. I think that if the House never interfered in judicial decisions, except when there was some political influence affecting it, and if then the House in a body came in and overruled the decision of the persons who usually sat as Judges, it would sink in public estimation.

1084. For the House to interfere, upon political grounds, of course would be objectionable; but supposing a case like Lord Sondes's case, or that of Pococke *v.* The Bishop of London, or the case of Lady Seymour, turning upon a question upon which the lay Lords are just as competent to decide, after hearing the arguments, as any law Lords can possibly be, would you deprive the House generally of the right, in case they thought fit to exercise the right, of voting upon the question?

So far from that, I should be very glad that the Lords should keep it, provided you could determine this first, what those cases were. The difficulty is this, that if you leave it open to them in all cases to come in, and express an opinion, the probability is that they would only do so in cases which interest them

them considerably, and that those cases would probably be cases connected with party questions.

1085. Lord *Abinger.*] You recollect the celebrated case of O'Connell?
Yes.

1086. The Judges attended the hearing of the case, and yet the House was so scrupulous, even as to supporting the opinion of the Judges upon a technical point, that they all declined to vote?
Yes.

1087. Surely you must consider that a proof that the Members of the House are very careful and very scrupulous about interfering judicially?
Undoubtedly. At present they never interfere at all practically.

1088. Although the lay Peers do not interfere, and ought not to interfere upon matters that are purely technical and legal, do you not consider that the public respect which is attached to the tribunal depends in some measure on the knowledge that the purity of the tribunal, and its good conduct, is under the sanction of the honour of the whole House?
Yes, undoubtedly so. I should be very desirous that the Peers should interfere in those judicial matters, which, confessedly, all persons are as competent to judge of as lawyers, such as the propriety of the appointment of a guardian and the like.

1089. Do you consider that that respect would still exist if you constituted a special tribunal, either by means of law Lords exclusively, or in the manner you have proposed, by the addition of two special Peers who should have studied the law; would not that be in effect a disconnection of the House from the tribunal?
I think not. I think if you have merely lawyers, it is a disconnection of the House; but if two or any number of lay Peers were appointed to represent the House upon the judicial tribunal, and those persons performed those functions properly, it would be, in point of fact, the House of Lords as a body that would be performing the duty.

1090. Lord *St. Leonards.*] But it is the fact now that the law Lords do not sit by any express right upon appeals, but merely by sufferance of the whole body; therefore, however constituted, they have the same authority, neither higher nor lower?
Undoubtedly; but if the fact of being a lawyer is an indispensable requisite, then it cannot be said that it is the House of Peers.

1091. Lord *Lyndhurst.*] You have had a great deal of experience in the House of Commons; do you think the House of Commons would be pleased to vote 5,000*l.* to each of the two lay Lords for assisting in the Appellate Jurisdiction?
I do not know that. It is to be observed that if this judicial tribunal were properly constituted, all the appeals ought to come to it, and you ought to have no intermediate appeal; at present you have intermediate appeals that intercept the business now. My opinion is that there ought to be one hearing before a tribunal, and an opportunity of rehearing the case before the same tribunal, and one appeal; but that beyond that, you are causing unnecessary litigation.

1092. Lord *St. Leonards.*] Have you ever, in the course of your practice, found much benefit arise from a rehearing before the same Judge?
No, except to correct an accidental error.

1093. Lord *Lyndhurst.*] Do the present Lords Justices diminish very much the appeals from the Court of Chancery?
I believe they diminish very much the appeals to the House of Lords; I do not know the statistical details; but I believe they do so to a very great extent.

1094. Would not the establishment of a Minister of Justice, who had been educated to the law, enable us to have another Judicial Member in the House?
No doubt it would do so.

1095. Do you think that would be a convenient mode of lessening the difficulty?

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If he must be a professional lawyer, the same observation would arise upon the present system; if he were not required to be a lawyer, it would be a change in favour of that which appears to me to be a beneficial system.

1096. What would you think of a tribunal consisting of three eminent lawyers sitting to administer justice in the Appellate Tribunal of the House of Lords; would not that tribunal be sufficient, in point of number, to give satisfaction and to discharge the business well?

I have no doubt that three would be sufficient, though I should prefer five.

1097. Earl of *Ellenborough.*] Did Lord Hardwicke sit quite alone, or were there law Lords sitting with him?

I think he sat quite alone.

1098. Did Lord Loughborough sit alone?

No; Lord Loughborough had Lord Thurlow and Lord Kenyon.

1099. Lord *Lyndhurst.*] And Lord Eldon sat for a considerable time alone?

Practically, for a considerable time alone; but Lord Redesdale sat with him a good deal; there were one or two cases in which Lord Redesdale made Lord Eldon reverse his decision—Innis *v.* Jackson was one.

1100. Are you of opinion, independently of the impression abroad, that one person is insufficient for the purpose of satisfactorily deciding the appeals?

I do not think it would satisfy the public.

1101. Independently of that, what is your own private judgment?

It would depend upon the man; I do not mean to say that you cannot get a person who would not satisfy the public.

1102. Lord *Abinger.*] As we have had evidence that each of the noble Lords constituting the present tribunal would be regarded as perfectly competent to decide alone, might not there be an advantage in dividing the business between them, Lord St. Leonards sitting with the Lord Chancellor in Chancery cases, and Lord Brougham in Scotch appeals?

I do not think that would be a very satisfactory mode of disposing of the appellate business.

1103. Are there not some advantages in having one Judge in the Appellate Jurisdiction?

I do not know that there are any; you avoid the possibility of a difference of opinion, of course; and it is much more agreeable to sit as a single Judge, than to sit as a Judge with anybody else.

1104. Is not it much more easy to satisfy one man sitting by himself?

That depends upon the quality of the mind.

1105. But, generally speaking, is it not so?

I cannot answer that question.

1106. Are not the counsel apt to be more interrupted with questions when there is a numerous tribunal; is not the attention of the counsel generally more diverted from his statement of the case?

It depends very much upon the disposition of the Judge, whether he asks questions or not. I do not think that the attention of counsel is much distracted by the questions put by the Judge.

1107. Earl *Grey.*] Did I correctly understand the effect of your answer just now, that you thought that if the House of Lords were strengthened as a tribunal of appeal, the office of the Lords Justices as a Court of Appeal might be dispensed with, and the intermediate appeal got rid of altogether?

That is my opinion; my opinion is that there ought to be only one Court of Appeal.

1108. Lord *St. Leonards.*] Would you give an option to the party to go to which Court he likes?

I would give an option to the party to go to any one of the Courts of first instance he likes; but I would only have one Court of Appeal.

1109. And you would sweep away the Court of the Lords Justices, and the Judicial Committee of the Privy Council?

Yes.

1110. And

1110. And you would make the Appellate Tribunal of the House of Lords one great Court of Appeal, sitting throughout the year?
Yes.

1111. Earl of *Derby.*] Do you think that the House of Lords could furnish a tribunal constituted in the way you have proposed, that would be able to decide all cases of appeal that now come before the three Courts?
I have no doubt it could. My acquaintance with Members of your Lordships' House is extremely limited; but I am quite sure, from my very limited acquaintance, that I could mention persons who would become very considerable Judges in a very short time, provided they would accept the office.

1112. The question I desire to put is not whether the House of Lords could furnish the materials for the Court, but whether one Court, consisting of Members of the House of Lords, would be able to discharge the whole business now discharged by the House of Lords in its Appellate Jurisdiction, by the Judicial Committee of the Privy Council, and by the Lords Justices?
I have no doubt it could: if it sat during the legal year, and sat five hours a day, I have no doubt it would do much more than that.

1113. Lord *St. Leonards.*] Of course you would exclude the Lord Chancellor, because he would have too much other business to be able to sit so constantly in the House?
No; I should include the Lord Chancellor.

1114. Lord *Lyndhurst.*] Suppose there should be no appeal from the Vice-Chancellor to the House of Lords in the first instance, but that the appeal must be in the first instance to the Lords Justices, would not that greatly diminish the number of appeals to the House of Lords in equity?
Yes, very greatly; it does now. Undoubtedly the Lords Justices perform their functions in a manner which gives very great satisfaction to the suitors: an appeal is there rapidly and efficiently heard. But your Lordships will observe that that is merely intercepting the Appellate Jurisdiction from the House of Lords: it is only another way of destroying it.

1115. That diminishes the number of appeals to the House of Lords?
Very much.

1116. You sit alone?
I do.

1117. There are very few appeals from you to the House of Lords?
I think you will have more shortly; at least I judge so from some applications that have been made to me to avoid going to the Lords Justices, and to come directly to the House of Lords. A party feels that it would be difficult for him to induce the House of Lords to reverse a decision, if it is a decision of one of the Vice-Chancellors, or of the Master of the Rolls, affirmed by the Lords Justices; then he has got three persons against him: he feels that there is a great weight of authority against him, and that the impression of the Appellate Tribunal will be against him.

1118. Earl of *Derby.*] Would you consider that in the case of the Lords Justices the Appellate Jurisdiction would be improved by the addition of a lay Member to the Court?
I do not think, having regard to the Judges there, that it would.

1119. Lord *Lyndhurst.*] He would become a dummy very soon, would not he?
That would depend upon who he was.

1120. Earl of *Derby.*] How do you draw a distinction, in principle, between that opinion and the opinion which you have given as to the desirableness of adding a lay element to the Appellate Tribunal of the House of Lords?
It should be remembered that the Lords Justices are not strictly a Court of Appeal; they constitute a Court of re-hearing, and fresh evidence not brought before the Court below is admissible before them; but assuming them to be a mere

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Court of Appeal, and that the Judges were composed of persons whose disposition was to make technical law prevail, the admission of the lay element would interpose a very great difficulty in the way of their giving effect to that disposition.

1121. Then you can imagine cases in which you would be of opinion that that Court also would be improved by the addition of a lay element?
Yes; if it were converted into an ultimate Court of Appeal, properly so called; but not the Court as at present constituted: my observations apply to the ultimate Court of Appeal. The appeals that come before the Lords Justices are re-hearings, and are confined to cases from Chancery: but I am now suggesting a Court of Appeal, not merely from Chancery, but from the Common Law Courts, and from Scotland, and from the Colonies.

The Witness is directed to withdraw.

Sir John Stuart.

The Vice-Chancellor SIR JOHN STUART, is called in, and examined as follows:

1122. *Chairman.*] YOU fill the office of Vice-Chancellor?
I do.

1123. You were many years at the Bar before you were Vice-Chancellor?
I was called to the Bar in the end of the year 1819.

1124. You became Vice-Chancellor in 1852?
I did.

1125. I believe that you came from that part of the United Kingdom called Scotland; as a barrister you practised considerably at the Bar of the House of Lords in Scotch cases?
Yes, and in English; I say English, because at first, very soon after I was at the Bar I happened to be counsel in one or two rather remarkable cases that were argued before the House of Lords, during the Chancellorship of Lord Eldon. What I first knew of the House of Lords from actual practice was in English cases.

1126. And afterwards in both English and Scotch, up to the time when you became Vice-Chancellor?
Yes

1127. From your observation during that practice, which must have extended over more than 20 years, what is the opinion you have formed as to the competency or satisfactory nature of that tribunal, or the contrary?
I think it has been in the highest degree satisfactory; I cannot imagine any tribunal more entitled to the respect of the public and of the suitors, or that, so far as my own observation goes, more completely obtained it. I have never heard anything worthy of much regard of the dissatisfaction which is said to be now expressed, and is expressed in some quarters, against the House of Lords. From the best consideration I have been able to give the matter, on talking to those persons who have expressed dissatisfaction, it never seemed to me entitled to any particular weight, and to be all referable to accidental circumstances.

1128. Lord *Lyndhurst.*] Are you speaking as to Scotland now?
Both Scotland and England; certainly in Scotland it has been in the highest degree satisfactory. Indeed I think those persons in Scotland who have property to be protected by the law of Scotland have always looked, and now look, upon the circumstance of the ultimate appeal to the House of Lords as one of the greatest protections they have in the administration of the law, and one to which they attach the greatest importance.

1129. Are you speaking of the Bar of Scotland or of the people of Scotland?
I am speaking of the people of Scotland; I may also say the Bar and the Judges of Scotland.

1130. *Chairman.*] Do you mean to say that that is the opinion now of the Bar and of the Judges in Scotland, or have you not had the means of forming an opinion of late years?

There

There have been some decisions of the House of Lords that have given great dissatisfaction, at the time, to the Bar and to the Judges. There was a decision in Lord Eldon's time, which Lord St. Leonards will well recollect—in the case of Vans Agnew, a decision upon the law of entail, where the House of Lords, by Lord Eldon's advice, reversed a decree of the Court of Session, which produced a prodigious effect in Scotland, because it ruined several persons of some consideration. It occasioned great dissatisfaction certainly to the Bench in Scotland, for I dare say Lord St. Leonards will recollect there was an attempt made by the Judges to resist the execution of the decision of the House of Lords. As to the Bar, I cannot say, so far as I had an opportunity of judging, that that particular decision was so unsatisfactory to the Bar as it was to the Bench in Scotland. But I believe that every Scotch lawyer now recognizes the wisdom and justice of that decision. I have heard no Scotch lawyer lately at all dispute it.

1131. *Chairman.*] What is your opinion with regard to the number of which it is expedient that the Appellate Tribunal of the House of Lords should consist?

There may be faults in the administration of any system, but the system upon which the House of Lords has disposed of its appellate business for nearly the last two centuries seems to me eminently calculated to produce the effect which it has produced; that is, the most satisfactory result. As I understand the system of conducting the appellate business in the House of Lords, it is this—the Lord Chancellor, who is always the greatest lawyer that the Government of the day can get, presides in the House of Lords, with all that enormous authority which his great office confers; he presiding also in the Court of Chancery, and having, what is to be seen in no other country in the world, except in England, a judicial power over property to an enormous extent, and having a degree of authority that I cannot well conceive to be surpassed in any system of society. The Lord Chancellor, with all these advantages, has always presided over and regulated the judicial business of the House of Lords; and his high position in the House of Lords always necessarily carries a weight with it, and the disposition to act upon any recommendation of his. The House of Lords has always conducted its Appellate Jurisdiction under, not only the presidency, but the direction of the Lord Chancellor. When Lord Eldon presided in the House of Lords, he had that advantage that every Lord Chancellor presiding in the House of Lords can have, he could have whatever assistance he might require, either in the House or out of the House. That power Lord Eldon exercised, and the result of it is very well known. Lord Redesdale attended very much, always by Lord Eldon's wish, to the despatch of business in the House of Lords; and great lawyer as Lord Eldon was, and great as the weight of his authority was, his opinions were considerably modified in some important cases by Lord Redesdale's advice. I may refer to the case of Wright *v.* Atkins, which Lord St. Leonards knows well. That is a case which Sir William Grant, a very great Judge, had decided in his Court; and Lord Eldon, upon appeal, confirmed the decision of Sir William Grant. The case was brought to the House of Lords, and after repeated discussions there, I believe it is very well understood that the opinion of Lord Redesdale prevailed, and that Lord Eldon modified his opinions very materially upon it, and the ultimate decision of the case was certainly not in accordance with the opinions that Sir William Grant and Lord Eldon had at first expressed.

1132. Lord *St. Leonards.*] Are you aware that in that case Lord Redesdale read a most elaborate opinion of his own against the opinion entertained by Lord Eldon?

I dare say he did. I heard part of the argument in the case. I was not counsel in it, but it was a very remarkable case. In another case also of Lord Cholmondeley *v.* Lord Clinton, Lord Redesdale's opinion prevailed, Lord Eldon there deciding against a judgment of Sir William Grant, which was one of his greatest efforts of learning. But all that was done simply by the constitution of the House of Lords in its Appellate Jurisdiction, such as it is now; and I think that those advantages could hardly be obtained by any arrangement that would separate the Appellate Jurisdiction from the general functions of the House of Lords.

1133. Lord *Lyndhurst.*] Do you think it advisable that in Scotch cases we

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should have the assistance of any lawyer from Scotland, in any form whatever in the House of Lords?

No, I think not; certainly not of any Judges. All the greatest Scotch lawyers to whom I have spoken, men whose opinions deserve most attention as lawyers, have agreed in that opinion. I heard the Master of the Rolls express the opinions of Lord Corehouse. I can add the opinions of Lord Jeffrey and Lord Rutherfurd, whose opinions I knew from familiar intercourse, and from having heard them often expressed. In so small a country as Scotland, the amount of litigation there being very great, as compared with the amount of property, there must be a certain provincialism in the course of proceedings before the Courts of Justice, and that is naturally redressed before the House of Lords. I think great confidence is given to the owners of property in Scotland by having an appeal to the House of Lords, as knowing that it is an entirely new tribunal before which the matter then comes to be adjudicated upon, and by which it is so completely sifted, that no judgment could be upon better or higher authority, even upon questions of Scotch law, than the judgment of the House of Lords.

1134. *Chairman.*] Does your opinion apply as well to the plan of making a Scotch Judge a Peer, so that he should constitute part of the tribunal as to the plan of bringing up a Scotch Judge merely to assist?

Certainly it does. I see no necessity for it. There are Scotch Peers in the House. I think one very great advantage in the present system, though there are some anomalies in it, is the number of checks that it provides. Every thing is done in so high a jurisdiction as the Appellate Tribunal of the House of Lords with very great gravity, and after great consideration; and the Lord Chancellor has, in every case, power of obtaining any assistance he pleases. I have heard what the Master of the Rolls has stated with reference to the assistance of laymen. I think the present system is admirable in that respect, because any assistance that need be given can be given.

1135. Earl of *Derby.*] Do you mean that you approve of, and that you would wish to continue the system by which the lay Peers attend by a rota, sitting to make up a certain number, but taking no part in the proceedings?

I have seen no inconvenience from it. But any inconvenience in it is easily redressed by the regulations of the House of Lords. I should say that the Lord Chancellor himself, who presides over the whole course of the proceeding, is the best judge as to how that shall be done; that was the course, I think, resorted to by Lord Eldon.

1136. You have heard the evidence given by the Master of the Rolls; are you of opinion with him, that a substantial interference of the lay element in the House of Lords would be an improvement in the tribunal?

No; I do not think anything more than may occur at present. I think there is a power in the lay Lords to interfere at present; but any lay Lord would be a very presumptuous man, upon a mere question of law, with a great lawyer presiding, who has the power of calling to his aid any assistance he requires, to interfere, except in very extraordinary cases. But some cases have been mentioned upon which any lay Lord would be confessedly competent to judge, such as the case of Ffytche *v.* the Bishop of London. Any change in the constitution of the jurisdiction which would prevent that interference of the lay Lords in cases of that kind would be a great blow to the dignity of the Peerage, and to the interests of the Public.

1137. Are you aware that, practically, the present system does go to the exclusion of the lay Lords from any substantial part in the Appellate Jurisdiction?

I was not aware of that.

1138. Earl of *Ellenborough.*] Do not you think that if there were the slightest suspicion of any partiality or impropriety on the part of any law Lord, in the transaction of the judicial business of the House of Lords, the next day you would see every Peer in the House present in his place?

I have not a doubt of it; I cannot conceive that the Lords Spiritual and Temporal of England are not fit to redress any injustice. I cannot conceive the case.

1139. Earl

1139. Earl of *Derby.*] You have stated that you were not aware that, under the present system of Appellate Jurisdiction, practically the lay Lords take no part in it?

Practically, they take no part; they exclude themselves. I was not aware that any lay Lord might not attend any day, although they generally attend according to a rota. My impression was that any lay Lord might attend any day.

1140. Lord *Lyndhurst.*] There is no doubt that they may attend, but they take no part practically?

That is probably all the better in ordinary cases; but the possession of the power to attend and take a part seems to me an element of great value in so supreme a jurisdiction.

1141. Earl *Stanhope.*] Do you think there is any value in a privilege held upon the condition that it shall never, under any circumstances, be exercised?

I think that is no privilege at all. But I understand that the lay Lords are not actually excluded, excepting that they consider it decent, and better for the administration of justice, for them not officiously to interfere; that is because they think it in ordinary cases unnecessary.

1142. Lord *Lyndhurst.*] You are aware that there was a case in the House of Lords in which it was suggested, after the argument was over, that the lay Lords should not interfere in the decision?

In O'Connell's case that was suggested. There were differences of opinion on the subject; and I have heard a very great lawyer, Sir William Follett, say that he thought that the course taken upon that occasion, the lay Lords not interfering, was one of the greatest blows to the privilege of the Peerage.

1143. Lord *Redesdale.*] Do not you think that in a case like that, with which political questions were so much mixed up, it would have been quite safe for any Peer, whether he had heard the argument or not, to declare that he was determined to be bound by the opinion of the Judges, and not by the opinion of the law Lords, it being equally competent to the House which had called in the Judges to take the advice of either?

I cannot easily answer that question. There were several questions in that case, some of them highly technical, which nobody but a lawyer would be competent to give an opinion upon. But upon consideration I am disposed to think that it would be safe for any Peer, in such a case, to declare that he would rather act upon the opinion of the Judges than of the law Lords, and to vote accordingly.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to Monday next,
One o'clock.

Die Lunæ, 21° *Aprilis* 1856.

LORDS PRESENT:

Lord Chancellor.	Earl of Ellenborough.
Lord President.	Viscount Gordon.
Lord Privy Seal.	Lord Sundridge.
Duke of Somerset.	Lord Redesdale.
Marquess of Lansdowne.	Lord Lyndhurst.
Earl of Derby.	Lord Abinger.
Earl Stanhope.	Lord Campbell.
Earl of Carnarvon.	Lord Elgin.
Earl Grey.	Lord St. Leonards.

THE LORD CHANCELLOR in the Chair.

Evidence on the Appellate Jurisdiction of the House.

The Right Hon. Lord St. Leonards.

21st April 1856.

The Right Honourable the Lord ST. LEONARDS, a Member of the Committee, examined.

1144. *Chairman.*] THE Committee understand that your Lordship wishes to make some statement with respect to some part of the evidence which has been given?

As it appears important that we should know how the Appellate Jurisdiction has been really exercised before we proceed to make any alteration in its constitution, I beg leave to make a few observations which will explain some matters which have been produced as objections to the jurisdiction as it is now exercised, and which I apprehend are without foundation. The Solicitor-general stated (in page 4, Answer 15), as one objection, that whenever the noble and learned Lords who constitute the tribunal differed in opinion, "they did not reserve the matter for further consideration; they did not strive to attain to unanimity of judgment, but they made their differences of opinion public." And he says that eight or nine cases have failed, as he terms it, upon that account. Now this is a very important point as regards the exercise of the jurisdiction; it well deserves the consideration of the Committee, in considering in what form we should continue the jurisdiction. In the first place, the Solicitor-general is mistaken in the number of cases which he says have failed, because the number is only, in any possible view, four, instead of eight or nine. There have been differences of opinion, but there being a majority of two to one in the other cases, nobody can represent those cases as failures; but it is a mistake which ought to be corrected, both here and in the country, to state that in any case there is a failure of justice. There is no such thing; it may or may not be a satisfactory mode of administering justice, but there is no failure of it, because if two only are sitting together, the Lord Chancellor and another law Lord, it is necessary that the two should agree, that a majority should agree, in order to reverse the judgment below. The effect of a disagreement is, that he who is for the decision below leads the House to affirm the judgment. But the law is just as much settled upon that affirmance as if the whole House of Peers had been present and voted upon it; and to call that a failure of justice is an entire mistake; and even if you look at it as a Court constituted of two (which, perhaps, one would not like), yet in every instance you have the judgment of the Court below properly constituted; and you have that corroborated by the judgment of one of the two Judges co-equal in the Court above. But then it is said, "that they do not strive to attain to

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unanimity of judgment, but that they make their differences of opinion public." Now in point of fact, that is a statement made from a total want of knowledge of what takes place. I speak in the presence of the Lord Chancellor and two of my noble and learned friends; they know that nothing of the sort ever takes place; that if there is a difference of opinion, so far from not striving for unanimity, they communicate to each other their views; and I myself have striven with the utmost care that a man could do, to bring my noble and learned friend to the view which I have taken. I have given him the judgment to read, which I had written upon the occasion, that he might form his opinion whether he could agree with me or not. There has been no attempt to take any advantage, or any impropriety of conduct on the part of any law Lord. I am sure there has been nothing of the sort on my part, and I have never seen on the part of others anything but a sincere desire, if they could, to agree and be unanimous. Supposing you cannot agree, then comes the question—and an important question it is—Are you or are you not to deliver the opinion which you really entertain? Now for myself, I would not sit upon any appeal or other Court in the kingdom, if I were not at liberty to express the opinion which I entertain; and I am clearly of opinion, that the law never can flourish as a science unless the Judge is permitted to do so. Supposing there were three sitting, for example, and that one of them found that the other two were opposed to the opinion which he inclined to entertain, does anybody suppose that the third man who could not be heard to express the grounds upon which he dissented would take the trouble to get up the law and work out the facts, and labour hour after hour and day after day, it may be, to make himself master of a very great subject, and to decide a great question—can anybody suppose that he would do so, if he believed that he, as a matter of course, was to sit still, and to hear a judgment pronounced which he could not say a word about, upon grounds that he believed to be wholly irrelevant and not law? It is said that you are not to declare any difference of opinion. Now take the case of two noble and learned Lords sitting to hear a case; suppose that the Lord Chancellor and the Lord Chief Justice are sitting together, and that the Lord Chancellor is for reversing, and the Lord Chief Justice for affirming; in that case the Lord Chief Justice would carry the decision, because he would be for affirmance, and it is required that there should be a majority to reverse that which has been decided by a competent Court of Jurisdiction; but I hope I shall never see this House, in its Appellate Jurisdiction, act in any other way than under the presidency of the Lord Chancellor for the time being; if ever the time shall come when that shall be the case, depend upon it, that the Appellate Jurisdiction will fall greatly in the estimation of the profession and of the public. The Lord Chancellor always has been the person to speak first, and he always ought to be so; he ought to lead the Court over which he presides. Then observe the situation in which the Lord Chancellor would be placed; he has to speak first; and according to this scheme, which says that there is to be no difference of opinion manifested, he is to deliver an opinion which he does not entertain; could that be endured? would any man do it? ought it to be done? Then, if you take three, for example, which I consider the best number, see how that would operate again: the Lord Chancellor is of opinion for a reversal; the two Lords Assistant, or whatever you call them, the Judges sitting with him, are for affirming; then according to this scheme, which has been so much pressed upon the Committee, although there are three, he would not be at liberty to deliver his own opinion, but he would have to deliver an opinion which he did not entertain; and he must either himself read it, or deliver it against all his own views, or it must be read by one of the Judges who constitute the majority; and although the Lord Chancellor does not concur in those views, they must be read to the Bar and to the public as the opinion which he and the rest entertain. I consider that not only would it be fatal to the law as a science, but that it would take away the satisfaction of the suitors. It would very soon be known that the judgment was a matter of compromise—that it was not what it was represented to be—that it was not the truth; and suitors love truthfulness; and they love another thing, they love to see that their Judges are resolutely bent to applying themselves to the duties which they have to perform; that they are masters of the science they have to deal with; and that they have bestowed great labour, as they ought to do, upon the judgments which affect so materially the deepest interests of the public which come judicially before the

the House; but these things would all cease under this scheme. Nobody would be able to collect whose opinions had guided the House, and satisfaction could not, I believe, exist.

1145. Lord *Campbell.*] Without intimating any opinion contrary to what you have expressed, I wish to ask how you can explain the satisfaction which has been given by the judgments of the Judicial Committee of the Privy Council?

I think I can easily explain that. I do not think the two Appellate Jurisdictions admit of comparison; nothing can be more different. You have there Privy Councillors who represent different portions of the law, if I may so say. One comes from the Ecclesiastical Court, and he can guide the Court with respect to Ecclesiastical questions and Admiralty questions. In the same way another has a great knowledge of English law, and he can guide the Court in that branch. Another comes from the East Indies, and he can guide the Court on Hindoo and Mahommedan law. And others have practised very much in the Colonies, and know sufficient of the Spanish, or the French or the Dutch law, to guide the Court upon those; and every man in his turn pronounces judgment. A tribunal more open to observation does not exist. It is all very well for the Crown Colonies, and even for the Colonies generally, as regards the power of the Crown to go to the Privy Council; but Privy Councillors are not the persons who are to be the Judges of the land. It has always been a great object of the English people to make the Judges free and independent; therefore they give them office during their good behaviour, and not as dependent upon the Crown. With regard to the Privy Council, the Crown could strike every Judge off the Bench, and introduce new ones; but that is not the manner in which English law is to be administered. Then, again, that which is very right in the Judicial Committee of the Privy Council as amongst themselves, that each shall have his turn, and that they shall all be upon an equality in giving judgment, is what you ought never to propose with reference to the Judicial Tribunal of this House, because the Lord Chancellor ought always to be the man who is to direct the House. Although he may not always be enabled to decide according to his own view, he should direct the proceedings, and be at the head of the jurisdiction.

1146. Earl *Granville.*] With regard to the practice of the Privy Council, are you aware that it frequently happens that out of the four who may compose the Committee for the time being to hear any particular cause, two or three are Chancery lawyers?

It sometimes happens; it depends upon circumstances. Of course I am not now going into the difficulties about that tribunal; people are very well satisfied with it, and I do not desire to make them dissatisfied.

1147. Are we to understand you to state it as a matter of fact, or merely as a supposition, that the judgment delivered is the judgment of the particular Judge who is supposed to be most conversant with that department of the law?

It is an inference which I draw; I do not state it as a fact, because I do not know it to be so; nor do I mean to say that it is done in every case; but I mean that where there is a particular person most conversant with a particular law, it would inevitably happen that they would appeal to him for his knowledge, and he would guide and overrule them.

1148. Lord *Campbell.*] There is, strictly speaking, no President of that tribunal?

No, there is not.

1149. Lord *Lyndhurst.*] Unless there is some good reason for an exception, do not they take it by turns to deliver the judgments?

I believe they do.

1150. In our House it is not necessary that the judgment should be delivered by the Lord Chancellor, but any noble Lord may move the judgment?

Yes.

1151. Was not that done in the Egerton case?

In the Egerton case, as there were a number of law Lords holding a contrary opinion, that course was taken to prevent what would have been disagreeable in itself—the appearance of opposing that which had fallen from the

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Lord Chancellor; and the Lord Chancellor was not open to any observation with regard to that case, although a majority of four law Lords were against him, because the great majority of the Judges agreed with him in opinion, and therefore it was a question of great nicety and difficulty; I mention that as showing that that was an exception to the general rule which prevails in the House. It then comes to be a question whether there should be written opinions, or whether the judgment should be delivered *vivâ voce*. Now I would just observe that there are some of these things with regard to the correction of the judgment, and with regard to the manner in which the Judge shall deliver his judgment, which are not proper matters for the consideration of this Committee, and can hardly, with propriety, be brought forward. You cannot direct Judges as to the manner in which they shall conduct themselves in fulfilling their functions. You may have a plan, for example, that they shall sit upon the same seat, and wear a certain dress,—all that may be done by arrangement; but you cannot prescribe to them whether they shall deliver a written opinion, or a *vivâ voce* judgment. Now as to written opinions, when I was on the Woolsack, I should have found it literally impossible; I should have broken down if it had been required of me to deliver written opinions. As a master of the law which I had to administer, and giving, as I did, an undivided and unbroken attention to whatever was presented before me for judgment, and being capable of mastering the facts, I was mostly enabled to judge satisfactorily, at least to myself, of the cases I heard, as soon as the counsel had ceased to argue. Cases brought before the House seldom occupy a very small portion of time; and if you give undivided attention during the argument, it is hardly possible that you should not be able to come to a satisfactory conclusion, with the aid of looking into the books and authorities at night; but no law Lord in the House, even constituted as it is now, can attend every day, or four days in a week, and get up elaborate judgments, and attend to anything else. At least I know that I had not mental or physical power to do it. When I apply myself to the Appellate Jurisdiction, for example, for a couple of months together, I can do nothing else. I have hardly ever at such a time entered the House for the general business of the House, for the appellate business occupies the whole of my time. I have here two judgments which I wrote—I very seldom write judgments—but here are two written judgments, one in a Scotch, and the other in an English case [*producing the same*], which I think will just give the Committee an idea of the great labour that attends this duty, and which anybody unacquainted with the subject can hardly fancy to be the case. I would say one word upon another matter, though it is hardly worth alluding to. I have been accused of want of dignity. It has been said that, in delivering judgment, I stood up, and slapped the table occasionally. What I suppose the learned counsel meant was, that I was too energetic. As to standing up, of course I dared not, by the rule of the House, sit down; it was of necessity that I stood up, because I was addressing the House. The difference between a judgment delivered from a common judicial seat, and a judgment (if it may be so called) delivered in this House, is this: that in the one case you address the Bar—I believe I have never been wanting in gravity, at least upon those occasions; and in the other you are addressing the House. I always addressed myself to the House. The House was often, at the time, very thinly constituted, no doubt, but still I was addressing the House, and I endeavoured to explain to the House the principles which should guide the decision of the case; I was not addressing the Bar, as you would do in an ordinary Court of justice; that, of course, explains that matter. Then the same witness, the Solicitor-general, made complaint which I consider to be a very grave matter, because I have no hesitation in saying, that if I or any other law Lord had been guilty of the conduct here imputed to me, any person who did so would deserve a severe censure. You never can administer justice to the satisfaction of the suitor, unless he finds that you give undivided attention to his counsel; and if a counsel was heard for a whole day arguing the case for the appeal, and any law Lord was absent, and then came and heard the argument on the other side, and decided against the appellant, no reprehension could be too severe, in my opinion, for such conduct. Now what the Solicitor-general said on his original examination was this: in Answer 68, in page 10. Lord Brougham put this Question: "You speak of the propriety or the necessity of Judges hearing the argument throughout; do you mean to state that any Judge

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in the House of Lords ever gives a judgment in a cause without hearing the argument throughout?—Yes. In what case has that occurred?—I will mention one. In Shortridge *v.* Bosanquet, I opened the appeal, and spent a day in doing so. One of the noble and learned Lords who decided against my argument was not present during that opening; he applied to my junior the next day for a note of my arguments; I did not repeat those arguments in the reply, because it is not my habit to do so. In the reply, I meet the arguments which have been raised against me. Yet, nevertheless, judgment was given by that noble and learned Lord, though the argument of the appellant's leading counsel was not heard by him. That is one instance; there are several others." Now, upon the learned witness making that statement, I, sitting here, was perfectly conscious that I had never been guilty of any such thing, though I knew the case perfectly. I gave no particular attention to it, because I was quite sure that it could not apply to me, and I thought no more about it. Lord Brougham called the same witness back again for further examination in regard to certain charges or statements he had brought against him; and in page 108, in Question 712, Lord Brougham asks him this question: "In the course of your previous evidence you mentioned a case in which one of the noble and learned Lords, who decided against your argument, was not present during your opening, and that he applied to your junior the next day for a note of your argument; did you refer to me?—No; your Lordship was not one of the Lords who heard the argument." I then knew instantly that it applied to me; and I said, "To whom did you refer?—To your Lordship." I said, "Are you quite sure that you are accurate?" No such thing ever occurred to me. I had had occasion to examine the reporter of English cases in the Court, in order to show that there was no such management of my judgments as had been imputed to me by the Solicitor-general; and as he was still in the room I asked him if he recollected the circumstances with respect to this case, and he told me he did not, but that Mr. Roundell Palmer was present, the counsel on the other side, and that he could explain it. The Committee allowed me at once to examine Mr. Roundell Palmer, and I asked him only this question: "In the case of Shortridge *v.* Bosanquet, what is your recollection as to the circumstances of the case coming on when I was not present?—I think I can state with tolerable accuracy what took place, so far as it came to my knowledge, for I, like your Lordship, was not present when my learned friend opened the case. The case came on very late in the day, and very unexpectedly to me. My client, who instructed me, was present, and he immediately sent down a despatch to me to say it had unexpectedly come on—the counsel in the previous case, I believe, not having been heard in reply. I did not, however, receive the message in time to go to the House of Lords that day. When my client came to me afterwards, he told me, to my great surprise, that the Solicitor-general had made an extremely short opening, treating it as a clear *primâ facie* case, and then concluded; and that I should be heard early on a following day." Now this brought it fully to my recollection, and I hunted up the papers. It is a case of as great importance as ever came before the Courts. It operated upon the fortunes of a great many persons, in regard to the dealings and conduct of railway companies. The Court of Exchequer, at the time when my noble and learned friend was a member of it, had come to a certain decision upon the question, and the Master of the Rolls had decided the particular case rather in an opposite way. It was, therefore, a very important case; and my noble and learned friend in the Chair must have felt desirous to have some assistance, it being in effect an appeal from a decision which he himself had concurred in. It was a subject which I thoroughly understood, and had more than once myself decided upon, and I had meant from the first to give my assistance in hearing that case. It came on suddenly, at the end of the day; and I heard Mr. Roundell Palmer himself state, although it is not here reported, that it occupied an hour on that day. The clerk at our table keeps a register of the time that counsel speak, and it appears from that, that the Solicitor-general spoke just an hour and five minutes in opening this important case. And therefore his recollection entirely failed him when he said that he had occupied the whole day, for he occupied only an hour at the very end of the day. Now I may venture to say, that upon all occasions on which I have sat upon appeals, I have never been an instant of time after the hour that was appointed for the hearing of the appeal. I feel

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I feel it is a positive duty to be punctual upon such occasions. Upon that occasion, the case came on at the end of the day, in the way which I have stated. The next morning, according to my recollection, I stated to the Bar that I had been absent, which they knew perfectly well. The leading counsel on the other side was absent. The Solicitor-general was followed by a most competent counsel, Mr. Selwyn. I applied to Mr. Selwyn for a note of the Solicitor-general's opening, and he had not got a single word, nor had anybody else on either side. Then I said, "You will suffer no injury, because Mr. Selwyn will be heard, and you will have your reply." The case went on for four days after that hour's opening on the preceding day, and I have got here the note books which I had before me at the time, and more care never was taken by any human being than I took in taking notes of the arguments of the counsel: here are 14 sides of notes taken of the arguments of counsel on both sides; I took a full note of the Solicitor-general's reply, and nobody could take more pains with a case than I did with that. The case is reported in the second part of Mr. Clark's fifth volume, and the judgment which I gave, which I can only say is at least an elaborate one, with a very careful review of the facts, and a very elaborate review of the law, whether right or wrong. Therefore I believe there never was a case more misrepresented, or where a judgment was less open to the observation that was made upon it than that particular case. I am very unwilling to go into these matters, but I was very much struck with what fell from Sir Fitzroy Kelly—of whom I have no reason to complain—but he made this observation as to the time when I was Lord Chancellor: he was asked whether the jurisdiction worked well; he said that it worked very unsatisfactorily, because there were only two Judges; but he added that it would have been far better that I should have sat alone, and he had no doubt my decisions would have been perfectly satisfactory to the whole Bar and to the people. Now I will ask your Lordships to observe how that stood: I heard, as Lord Chancellor, 36 cases; 13 of them I heard alone, and therefore, of course, those would have given satisfaction, according to the statement of the witness; six of them I heard with more than two, with three or four law Lords present, and there was no difference of opinion, and, of course, nobody can object to them; and 17 were heard with two; but without any difference of opinion except upon one point in one of the cases; and therefore the witness ought, perhaps, to have said this, that although he did not approve of the House being constituted with two, yet he could not deny that it worked satisfactorily during the period which I have pointed out; and during that period there was this great alteration, which bears upon the important question, whether there should be written opinions or not. During Lord Cottenham's time, when he used to read his judgments, and very able ones, the delay in giving judgment had become a very marked and painful thing to the public. I remember that I myself, in the House of Commons, several times moved for a Return, in order to see in what state the arrear of judgments was, and at last I got a Return, showing when the causes were heard, and when they were decided; and that led to some improvement in that respect. Then Lord Truro became Lord Chancellor: and I may here just say that I wish I had been in the House the other day, to add my voice to the general testimony in favour of that noble Lord; but Lord Truro knew nothing of Scotch cases; he had never been engaged in Scotch law; therefore, he was under a disadvantage: he heard Scotch cases during an entire Session, and he never delivered one judgment. So that the reporter thought fit to add a note, which I complained of at the time: "As no judgments in the Scotch cases were delivered during this Session, of course there are no reports." That delay gave very great dissatisfaction in Scotland, and it certainly tended to bring a great many appeals from Scotland, which ought never to have been brought to this House, either with reference to the value of the subject in itself, or with reference to the question of law involved in them. It led to an increase of appeals from Scotland; for it makes a wonderful difference, in the case of an improper appeal, whether, after all the counsel have been heard when every body is present, the House disposes of it at once, showing that it ought never to have been brought into the House, and dismisses it with costs; it makes a wonderful difference whether that course is taken, or whether the case is postponed for months, or it may be for a year or two years, and then judgment is pronounced, dismissing it when everybody has forgotten the facts; and I believe that what took place during my time did

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did prevent very much the increase of Scotch improper appeals. Proper appeals, of course, nobody has anything to say about, except a desire to dispose of them in the best manner. But I could not myself have performed the duties of the office which I filled, except by disposing, as far as I was competent, of the cases as soon as the argument closed; for, otherwise, I should have had the whole argument operating and weighing upon my mind, night and day, till I had disposed of them; and the effect was, that there was no delay in giving judgment, which is one important feature in the right exercise of an Appellate Jurisdiction. If there had been undue haste, that, of course, is another thing; but despatch is not undue haste. With a knowledge of the law on the part of the Judge, and undivided attention to the arguments, I believe that in a great majority of cases a perfect master of the law may dispose of the greater proportion of them as soon as the arguments are closed. There is one other point to which I would draw the attention of the Committee, with reference to a question upon which many observations have been made with respect to Scotch cases: in the Resolutions which have been printed, as altered by me, I have added to the words "persons who shall have filled high judicial offices," the words "in England or Ireland." I do not like the look of it, if it could be avoided, because it looks as if I intended to exclude Scotchmen: I wish to explain that. It may seem as if I were treating Scotchmen with disrespect; of course I have no such intention. There are no counsel that come to our Bar better qualified to argue cases which they have to advocate than the learned counsel from Scotland, and I have the highest respect for them and for the Scotch Bench: nothing could induce me to say a single word which would be derogatory to them; but everybody does not seem to be aware that it is hardly possible, it can rarely happen (though it has happened), that any man can become Lord Chancellor in this country who has not had considerable experience in Scotch cases. Irish law, with very few exceptions, you may consider to be the same as English. Having administered that law five years, I can state that you may consider it as English law; and therefore, of course, I added "Ireland" to "England:" and if the law had been the same in Scotland, I need not say that I should have struck out the words, and not have attempted to exclude Scotland. The only reason why I object to a Scotch Judge in the Appellate Jurisdiction is, that he never is called upon, and never has the opportunity, in any manner, of making himself master of the English law: to him it is foreign law; he cannot know it; he does not affect to know it, and he treats it as foreign law. He never has the knowledge of English law equal to the knowledge of the Scotch law, which must be possessed by an English lawyer in great business (as any man ought to be before he is advanced to the position of Lord Chancellor), because all the leading counsel are selected as advocates in Scotch cases. To take myself, for example: I had during several years very considerable business in Scotch appeals, as much as I chose to attend to; and at last one of the great agents waited upon me, and told me that he came as representing the whole body, to ask whether I would undertake to attend Scotch appeals generally, and that if so, he could assure me that I should have them all. I saw at once that that would very much interfere with my general business; and, therefore, I very respectfully declined, and discontinued to take any more. But that shows that Scotchmen thought at least that I was competent to argue Scotch cases; and if I was competent to argue them, probably I should be competent to decide them. No man in the Appellate Jurisdiction, as an English lawyer, affects to be a first-rate Scotch lawyer; but no man can fill the situation of Lord Chancellor who has not a competent knowledge of Scotch law. No man can argue cases at the Bar of this House as an English advocate, who is not compelled to make himself master of the principles of Scotch law; and then, if he has a judicial mind, and has been in the habit of deciding judicially, he is enabled, as experience has shown, with the assistance of counsel, and with all the appliances of the case before him, and by examining the authorities, to grapple with the greatest difficulties of the Scotch law; and, speaking generally, so as to give satisfaction. Therefore it is that I should exceedingly object to the introduction of a Scotch Judge in the Appellate Jurisdiction; and I am quite sure that it would become worse than a sinecure; because the proportion of cases of difficulty from Scotland is so small, that you never could provide sufficient work for a person in the situation of a Judge of an Appellate Court. I think it was the Dean of Faculty who said

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said that the introduction of a Scotch lawyer into this Appellate Jurisdiction would both improve the Scotch lawyer and the English law. Now if you just take the converse of that, you will find that an English lawyer, by applying himself to the Scotch law, will both improve himself and the Scotch law. But there would not be enough business for a Scotch lawyer to apply himself to, connected with the Scotch law; and as to his learning English law on his coming to a seat in the House of Lords, that appears to be entirely out of the question. Now I merely wish to notice one thing more which fell from the Dean of Faculty, which is very important. The Dean of Faculty was examined upon a day when I was absent from illness. He is a gentleman for whom I have a great respect, and I was rather surprised to see a portion of his evidence, which is in page 120. In Question 806, he is asked, "When you say that it would be necessary that the other Judges should devote themselves to considering the case, is not that the case now?" He says "True; but they would then do it with the assistance of a Scotch lawyer, which would prevent those frequent and most disastrous errors which have occurred in times past." He is then asked, "When you say 'frequent and disastrous errors,' can you point out any particular cases to which you refer?" He then refers to cases before Judges, who are now no longer here to answer for themselves; and then he says that he will give an instance of a recent case; and that recent case was before me. He mentions it in this way: "I may mention also a very recent case in which, if the judgment was right, the grounds of the judgment were essentially wrong. I mean the case of the Dundee Harbour Trustees *v.* Dugald, in which the noble and learned Lord who moved the judgment, speaking of the Scotch Act concerning prescription, the Act of 1617, said that it was the simplest Act that was ever passed; that it was a statute which he who runs can read; and that as to the distinction between negative and positive prescription, it was a mere difference in words. Now, I can only say with regard to that ground of the judgment, that I do not think we should have been much more surprised in Scotland if we had been told that land descends to the female in place of the male; because that Act of 1617 has received a great deal of judicial construction; and I believe there is no system more complete in itself, and no one now better understood than the Scotch law of prescription. But, unfortunately, the noble Lord who decided that case was not aware of that." Now, that is a very serious charge to make against one of the law Lords sitting upon the Appellate Jurisdiction, although it might well happen that he might make a slip on a point of Scotch law. The case is reported in the first volume of Mr. Macqueen's Reports; and I am made to say, "There has been a great deal of discussion upon the question whether this is a case of positive or of negative prescription, and I believe that the law of Scotland has been very much embarrassed by the introduction of those terms. They are not to be found in the Act of Parliament, they do not properly belong to the subject, nor do they appear to me properly to describe it, for there are many cases in which you might very well, in point of language, say that there is a negative prescription even where a positive prescription also intervenes; the two must often be blended with each other; and I believe that there has been more contention about the meaning of those words than upon the substance of the cases in which those words have been matter of discussion. The Act of Parliament itself is the simplest Act that ever was passed; it is a statute which he who runs can read; there was never anything so plain and so easily intelligible. It applies solely to heritable rights, that is, rights of real property, and it declares that where there has been possession upon a title for 40 years, the right shall be good against the world. Notwithstanding all that we have heard as to positive prescription and negative prescription, it seems to me that there never were rights which stood upon more distinct grounds, or rights to which the clear provisions of the Act of Parliament more distinctly applied." In that particular passage to which the witness refers, I do not find those words which he represents me to have uttered, that it was a distinction only in words. I perfectly well knew that it was a settled and solemn distinction in the Courts of Scotland. But what I said was this, that the statute of 1617 drew no such distinction, that it was simple and clear, so that those who run may read; but that a great deal of difficulty had been added by the distinction between positive and negative prescription. To show what I recommended the House to decide, I will read this

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this passage: "If the respondent here" (I said) "had set up a claim to the harbour of Dundee, I could have understood a great deal of the argument which I have not understood as applicable properly to this case. But nobody disputes the title to the harbour of Dundee. It stands upon grounds which cannot be shaken, and the respondent is only *defending* himself." Now I beg your Lordships' attention to this: it is stated that I said that there was no distinction between positive and negative prescription, that it was a distinction only in words. But this is what I said: "I must say that, looking through the authorities, I find every confirmation of that which I had believed to be the true distinction between positive and negative prescription. The words are clear enough; I look at the substance, and I am perfectly satisfied, upon the authorities, that the prescription applicable to this case is what is called by the Scotch law a negative prescription, and therefore I am clear that 40 years' enjoyment would be a bar, except some other right were set up." Not only, therefore, do I not say that it is a distinction only in words, but I carefully explain the distinction in the Scotch law; and my opinion turned entirely upon that case falling within negative prescription, and upon that alone; and my noble and learned friend, who is not now present, Lord Brougham, agreed with me upon the same ground, that it fell within negative prescription. It is quite clear, therefore, that the Dean of Faculty has taken up the expression inaccurately, or disregarded the context of the judgment, and that his view of the effect of that decision is wholly without foundation. Your Lordships will recollect how very much the Scotch lawyers in their evidence differed about the decisions of your Lordships' House in Scotch cases. In the case of Miller *v.* Small, the Lord Advocate thought there was a great fault, because the House did not understand feudal law. Mr. Anderson and the Lord Justice Clerk thought it was an admirable decision, that it did not touch the feudal law at all; it was a question whether there was not personal obligation wholly independent of the law. That case was decided in the time of the Lord Chancellor; but I agreed with him entirely in the view which he took, and I believe it is approved of by many of the Scotch lawyers. I have nothing more to say. I have made these observations, not for the sake of meeting any imputation upon myself, but considering that when I have the honour to sit as one of the law Lords, we represent the whole House, I have felt it my duty, in justification of the House itself, to show that there has been no want of care or of caution in the administration of the jurisdiction.

Ordered, That this Committee be adjourned.

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JUDICIAL COMMITTEE OF THE PRIVY COUNCIL:

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3. *Formal Conduct of the Proceedings.*
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The Scotch member of the Court might be selected from the Scottish Bench or Bar as opportunity offered, *Right Hon. J. Moncreiff* 547——The holder of the office should no longer perform any duties in Scotland, *ib.* 567-569; *Inglis* 816, 817——Improbability of the decisions of the proposed Court in Scotch cases being looked upon in Scotland as the decisions mainly of the Scotch member of it, *ib.* 804, 805——There is no probability of the Scotch member of the Court overruling the opinions of the other members in Scotch cases, or of the suitors thinking that he had any undue influence, *Lord Justice-General* 994, 995——The selection of a Scotch Judge would not be unsatisfactory on party grounds, *ib.* 1001, 1002.

2. *Diminution of Appeals if there were a Scotch Lawyer on the Court:*

There would be a less number of Scotch appeals if the Court comprised among its members a Scotch lawyer of eminence, *Right Hon. J. Moncreiff* 539, 540. 575-578; *Inglis* 810. 852, 853——Incentive to Scotch appeals in the fact of the judgment of the House being to a certain extent viewed as a lottery, *Right Hon. J. Moncreiff* 539——Temptation to appeal in the fact of there being no Scotch lawyer to explain the differences between English and Scotch law, *Lord Justice-General* 1003, 1004.

3. *Faulty*

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3. *Faulty Judgments through the Absence of a Scotch Member:*

Judgments of Lord Wynford, Lord Brougham, and others, in certain cases, adverted to, as being held questionable in Scotland, *Right Hon. J. Moncreiff*, 531–536. 543–544——Defective working of the Court of Appeal in affirming, as well as reversing judgments of the Court of Session, *ib.* 537, 538.

Unsatisfactory working of the Court through the absence of practical information as to matters of Scotch law, *Inglis* 801. 807. 834. 859–865——Particular cases cited, as showing the disastrous errors committed by the Court in past times on questions of Scotch law, *ib.* 807. 835–840——Further evidence as to the effect of the judgments of the House in unsettling and altering the law of Scotland, *ib.* 831–840. 858. 881–883.

4. *Objections to the Introduction of a Scotch Lawyer:*

Grounds for the conclusion, that in the case of Scotch appeals, it is not desirable to call in the assistance of a Scotch Judge, *Sir F. Kelly* 203–209——In some respects the introduction of a Scotch law Lord might be advantageous, but in practice the Court has worked well without one, *Anderson* 626–647——Practically, the introduction of a Scotch Judge is not desirable, *ib.* 633——Probability of local prejudice if a Scotch Judge were appointed, *Kerr* 907, 908. 912——The feeling would be that the appellate business of the country devolved on the Scotch Judge, *ib.* 912.

Great advantage in the fact that the Court of last resort is wholly unconnected with the Scotch Bench and Scotch Bar, *Right Hon. J. Hope* 929–932. 935. 976–984——Illustration of the advantage in Scotch cases of local prejudices not being represented in the person of a Scotch Judge as member of the ultimate Court, *ib.* 929——Dissatisfaction to be given by a Scotch Judge in Scotch cases, whether the judgment of the Court below be affirmed or reversed, *ib.* 929. 932. 935. 984——Ample opportunities of the Court, as now constituted, for arriving at proper conclusions in regard to points of Scotch law, *ib.* 932. 937–939——Practical difficulty if the presence of one Scotch lawyer as a Peer be considered essential, *ib.* 934——Whatever the number of the Court, there should not be a Scotch Judge, *ib.* 936. 977–984.

Inexpediency of appointing a Scotch lawyer to the tribunal, or of calling in the assistance of a Scotch Judge in any way, *Right Hon. J. Stuart* 1133, 1134——Grounds upon which witness objects to the introduction of a Scotch Judge in the Appellate Jurisdiction, *Right Hon. Lord St. Leonards* 1151——Great distinction between Scotch and English law, *ib.*——Competency of the Lord Chancellor in matters of Scotch law; Scotch Judges, on the other hand, being unacquainted generally with English law, *ib.*

5. *Satisfactory Judgments of the Court as hitherto constituted:*

Scotch appeals are decided as well as appeals from English Courts, *Rolt* 454, 455——Though several judgments have been faulty, many important benefits, as regards the administration of the law, have been conferred on Scotland by the manner in which the appellate jurisdiction of the House has been exercised, *Right Hon. J. Moncreiff* 525–528. 538.

Explanatory comment upon certain cases of appeal from Scotland, in which it has been urged, as witness considers, very erroneously, that the judgments have been delinquencies on the part of the House of Lords, and have been quite at variance with Scotch law, *Anderson* 650; *Right Hon. J. Hope* 941, 942.

The judgments may have effected beneficial alterations of the law, but such alterations should rather have been effected by legislation, *Inglis* 837, 838. 881–883——Excellent manner in which Scotch cases were determined separately by Lords Hardwicke, Loughborough, Eldon, and Mansfield, all of whom were well conversant with Scotch law, *ib.* 856–858. 877, 878. 881–883.

6. *Public Opinion in Scotland in regard to the Constitution of the Court:*

Witness would wish to see a Scotch Judge one of the four official Peers, but finds that public opinion in Scotland is opposed to such proposition, *Sir R. Bethell* 104, 105. 132——Absence generally of complaint by Scotch Advocates, as to there not being a Scotch Judge a member of the ultimate court, *Rolt* 453. 457, 458.

Evidence in opposition to the statement of the Solicitor-general, that the feeling in Scotland was adverse to having a Scotch Judge at the tribunal of the House; report of a Committee of the Faculty of Advocates adverted to hereon, *Right Hon. J. Moncreiff* 548, 549. 555, 556. 559. 573, 574——Intelligent public opinion in Scotland is certainly in favour of there being a Scotch lawyer on the court, *Inglis* 823–829. 874–876——Great dissatisfaction in Scotland, if a new court be constituted apart from the jurisdiction of the House, and comprising English lawyers only, *Inglis* 854, 855. 858; *Lord Justice-General* 1010–1012.

Great confidence entertained generally throughout Scotland in the present tribunal, *Kerr* 906, 907. 911, 912. 920–922; *Right Hon. J. Hope* 931, 932. 977——Strong feeling

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in Scotland against the appointment of a Scotch Judge as member of the ultimate court, *Kerr* 908-912. 920-922—— Opinions of a solicitor at Edinburgh, Mr. Sheriff Steel of Glasgow, and Mr. Thoms of Dundee, quoted, as being in favour of the present tribunal, and opposed to the introduction of a Scotch Judge, *ib.* 911——Decided satisfaction given by the manner in which the jurisdiction has been exercised, *Right Hon. Sir J. Stuart* 1128. 1130. 1133.

7. *Views of the Committee with respect to the Introduction of a Scotch Lawyer:*

The Committee review the evidence for and against the introduction of a Scotch lawyer or Judge, and conclude that no fixed and invariable rule should be adopted on the subject, *Rep. p.* iv, v.

8. *Suggested Appointment of an Assistant Scotch Clerk:*

Witness recommends the appointment of an Assistant Scotch Clerk, from the body of the Scotch Solicitors, *Right Hon. J. Hope* 971-274——Correction, through means of the Scotch Clerk, of any errors in judgment, in point of form, *ib.* 971——Advantage of the proposed functionary as a means of checking the passing of Bills, which, in an indirect way, extend their provisions to Scotland, *ib.* 971, 972.

9. *Objection to the Formation of an Ultimate Court in Scotland:*

The formation of an Appellate Court in Scotland, to be comprised of Scotch Judges, for determining all Scotch appeals, is not desirable, *Inglis* 842-849.

10. *Evidence generally as to the Number and Conduct of Scotch Appeals:*

Improper appeals from Scotland are often brought before the House, *Palmer* 355. 369, 370——Employment generally of English counsel on Scotch cases, *Rolt* 456. 462——Intelligence of Scotch solicitors adverted to, *ib.* 456. 459, 460——Causes of the large number of Scotch appeals; they are attributable partly to the national character, *Rolt* 468. 506-508; *Anderson* 646. 648-650——Appeals made from Scotland for the purpose of staying execution; revision necessary hereon, *Anderson* 659—— Questions of fact do not now come up from Scotland to be decided by the House, *Inglis* 868, 869.

See also *Adams, The late Mr. Alimony. Aourmer* v. *Galbraith. Arguments of Counsel. Corehouse, Lord. Cranstoun, Lord. Dundee Harbour Trustees* v. *Dugald. Edinburgh and Glasgow Railway* v. *The Town of Linlithgow. Eldon, Lord. Entail Law, Scotland. Faculty of Advocates. Feudal Law, Scotland. Glasgow. Hardwicke, Lord. Jeffrey, Lord. Judges. Lord Chancellor. Lord Keeper (Scotland). Melrose* v. *Hastie. Miller* v. *Small. Petty Appeals. Printed Cases. Private Trusts. Procedure. Public Trusts. Real Property Law (Scotland). Retention of Jurisdiction. Rutherford, The late Lord. Session, Court of (Scotland). Technicalities. Upfill Case. Writers to the Signet.*

Scotch Law Lord. See *Scotch Appeals.*

Separate Judgments:

1. *Disapproval of separate Judgments; the Opinions of the Majority only should be publicly expressed.*
2. *Approval of the Right of Expression of different Opinions.*
3. *Recommendation that there be no fixed Rule on the subject.*

1. *Disapproval of separate Judgments; the Opinions of the Majority only should be publicly expressed:*

Objection to the present practice of the Court of Appeal, whereby any difference of opinion between the Lords is made public, *Sir R. Bethell* 15 *et seq.*; *Palmer* 339. 386, 387——In cases of difference of opinion, the appeal should be adjourned for further consideration, and the judgment should be that of the majority, to be delivered by one Peer only, *Sir R. Bethell* 15. 24-26. 32-45——Unsettled state of the law, by reason of the difference of opinion expressed by the Appeal Lords in certain cases, *ib.* 16——In the inferior courts the opinion of each Judge should be given publicly, but not in the final courts of appeals, *ib.* 25-35. 39.

The opinion of the majority of the tribunal should be delivered as the judgment of the House, *Sir F. Kelly*, 150-159. 172, 173——Importance of each judgment, after being duly considered in private, being delivered as the unanimous judgment of the House, without reference to the existence of any difference of opinion, *Palmer* 339. 386, 387——With respect to each member of the court delivering their opinion separately, the disadvantages thereof are greater than the advantages, and therefore the judgment of the majority only should be delivered, *Right Hon. J. Moncreiff* 589-597; *Anderson* 662, 663. 666, 667; *Right Hon. Sir J. Romilly* 1070-1075. 1077.

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2. *Approval of the Right of Expression of different Opinions*:

The practice of the expression of individual opinions is on the whole judicious, though there are some minor advantages in repressing such opinions, *Rolt* 478–496——Advantage, on the whole, of each Judge expressing his opinions or judgment separately, *Inglis* 884–888——When the Lords concur in affirming a judgment, there should be no detailed expression of opinion, *Right Hon. J. Hope* 964–969——Where there is a difference of opinion, the Judges should be bound to express their opinions, *ib.* 966.

Argument strongly opposed to the proposition that differences of opinion should not be expressed, and that the judgment of the majority be delivered as that of the Court, *Right Hon. Lord St. Leonards* 1144, 1145. 1150, 1151——The law never can flourish as a science unless each Judge be at liberty to manifest his opinion, *ib.* 1144——Anticipated dissatisfaction to suitors if the judgment of the majority only be delivered, *ib.*——Impropriety of the Lord Chancellor, if in a minority, being obliged to deliver the opinion of the majority without any expression of his own opinion, *ib.*

3. *Recommendation that there be no fixed Rule on the subject:*

Objection to any fixed rule in regard to the expression of different opinions by the members of the court, *Lord Justice-General* 1020.

The Committee revert to the arguments for and against separate judgments, in the event of differences of opinion, and conclude that the matter must be left to be arranged by those who hear and decide the appeals, *Rep. p.* v.

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Session, Court of (Scotland). More care and pains taken in the ultimate Court of Appeal than used to be taken in the Court of Session, *Right Hon. J. Moncreiff* 525. 538——Sundry instances in which the judgments of the Court of Session have very properly been reversed on appeal to the House, *Anderson* 650——The dissatisfaction formerly felt with the Scotch Court of Session first led to the existing confidence in the appellate tribunal of the House, *Kerr* 906, 907.——*See* also *Scotch Appeals.*

Shortridge v. *Bosanquet.* Difference of opinion between the law Lords in this case; consequently unsettled state of an important question in law, *Sir R. Bethell* 16——One of the Lords who gave judgment was not present when witness opened the case, which he spent a day in doing, *ib.* 68——In stating that one of the Lords who gave judgment was not present at the opening, witness refers to Lord St. Leonards, *ib.* 712–715.

With regard to this case, in which witness was engaged, it came in very late in the day, and quite unexpectedly, and the Solicitor-general made an extremely short opening, *Palmer* 749.

Exception taken to the statement (Q. 68. 712–715) that witness gave judgment without having heard the whole of the argument for the appellant; explanation hereon, *Right Hon. Lord St. Leonards* 1151——The case came on suddenly at the end of the day, *ib.*——Instead of Sir R. Bethell having spent a day in opening the case, his opening occupied only one hour and five minutes, *ib.*——Witness took special care to make notes of the arguments of the counsel, and gave a most elaborate judgment, *ib.*

Sittings of the Court. The ultimate court should be open during five days in the week throughout the year, except the usual vacations, as observed by the Court of Chancery, *Sir R. Bethell* 120. 126–130. 136——There is no necessity for the Judicial Session of the House being longer than the Legislative Session, *Sir F. Kelly* 188——Great importance of the ultimate Court of Appeal sitting throughout the year, without any prorogation as at present, *Malins* 266-270; *Right Hon. J. Moncreiff* 610——*Anderson* 658-660——*Right Hon. Sir J. Romilly* 1029. 1040. 1045–1049——Advantage if a Judicial Committee were appointed by the House to attend during the recess to urgent cases, *Palmer* 360——There is no necessity for the ultimate court sitting throughout the year, *Rolt* 449.

The sittings of the ultimate court should be at fixed and certain periods, upon the same principle as the sittings of other courts, *Right Hon. J. Napier* 766. 784–788——Diminution of delay and expense if they were a properly constituted court of appeal, sitting regularly and throughout the greater part of the year, in the same way as other courts, *Inglis* 859. 867. 899–901——Advantage if the Scotch, Irish, and English cases were respectively fixed to be heard at certain periods of the year, *Kerr* 922.

Importance of the sittings of the House being more continuous and regular, and of a period being fixed for Scotch appeals, *Right Hon. J. Hope* 974, 975——The court should prolong its sittings so as to wipe off the arrears, *Lord Justice-General* 1017, 1018——The court, if it did not sit throughout the legal year, should sit a sufficient time to keep down the arrears, *Right Hon. Sir J. Romilly* 1050–1054.

The Committee advise that sittings for the hearing of appeals should be continued or resumed, irrespectively of the prorogation of Parliament, *Rep. p.* iv, v.

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Smith v. *Darley.* This Irish case, in 1850, adverted to as having been satisfactorily decided without calling in the Judges, *Right Hon. J. Napier* 756–759.

Solicitor-general. The Solicitor-general practises only in special cases, and makes the largest income now made, or ever likely to be made, at the Bar, *Malins* 292, 293.

See also *Bethell, Sir Richard,* M.P.

Special Cases. Explanation as to special cases, as in England, not being adopted in the Scotch courts, *Inglis* 870–872.

Steel, Mr. Sheriff (Glasgow). Letter from Mr. Sheriff Steel adverted to, as expressing the views of the legal profession of Glasgow, and as being opposed to having a Scotch Judge on the tribunal, *Kerr* 911.

Stuart, The Right Hon. Vice-Chancellor Sir John. (Analysis of his Evidence.)—Was called to the Bar in 1819; became Vice-Chancellor in 1852: 1122–1124——Has had considerable practice before the House of Lords, both in English and Scotch cases, 1125, 1126——Extremely satisfactory working of the appellate jurisdiction of the House, 1127–1131. 1134——Decided satisfaction given to Scotland by the manner in which the jurisdiction has been exercised, 1128–1130. 1133——Excellent manner in which the appellate business was conducted during the Chancellorship of Lord Eldon, 1130–1132. 1135.

Strong objection to any change in the present system, whereby the Lord Chancellor presides over and regulates the appellate business, 1131. 1134, 1135——Inexpediency of appointing a Scotch lawyer to the tribunal, or of calling in the assistance of a Scotch Judge in any way, 1133, 1134—— Importance of the power of the lay Lords to take part in the appellate business, though in practice they very rarely exercise the power, 1134–1143——Objection to the permanent appointment of two lay Lords as members of the tribunal, 1136.

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Technicalities. Objection to the appointment of a Scotch Judge, on the ground that it would lead to the observance of artificial and technical rules in the judgments of the House, *Right Hon. J. Hope* 929. 932——Opinion that the worst Court of Appeal is one, the several members of which are each intimately acquainted with one particular technical law, *Right Hon. Sir J. Romilly* 1030——Satisfactory working of the Judicial Committee of the Privy Council, the members of which cannot be said to possess a detailed knowledge of the laws which they administer, *ib.* 1030, 1031.

Tenure of Office. It is not necessary that the Judges who may be members of the tribunal should be removable by an address to the two Houses of Parliament, *Sir F. Kelly* 218. 224, 225——The members of the proposed tribunal should be permanently appointed, *Malins* 290——Propriety of a facility for removing them, *ib.* 311, 312——Different means of removing the proposed members of the tribunal, *Palmer* 366. 373–375. 380, 381——The office should be held for life, or during good behaviour, *Right Hon. J. Moncreiff* 571, 572; *Right Hon. Sir J. Romilly* 1067–1070.

Tindal, Lord Chief Justice. Careful and excellent manner in which Irish law cases were considered by Lord Chief Justice Tindal, *Right Hon. J. Napier* 756——Reference to a case in which Lord Chief Justice Tindal, in delivering the opinions of the Judges, apologised for not having had sufficient time duly to consider such opinions, *ib.* 759, 760.

Truro, Lord, Chancellorship of. Inadequate attendance during the Lord Chancellorship of Lord Truro in 1851, *Sir R. Bethell* 10——Constant attendance of only two Judges during Lord Truro's Chancellorship, *Sir F. Kelly* 141——Large arrear of Scotch cases when Lord Truro became Lord Chancellor, *Anderson* 622——Case of appeal in 1851, involving a nice question upon the Irish Registry Act, a subject quite new to the only Lord present, Lord Truro, who, however, gave a very satisfactory judgment in the matter, *Right Hon. J. Napier* 763–766.

Improvement under witness's Chancellorship as compared with Lord Truro's in regard to arrears and delay in giving judgment, *Right Hon. Lord St. Leonards* 1151——Testimony to the ability of Lord Truro, though not conversant with Scotch law, *ib.*

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Unanimity of Judgment. Complaint as to the members of the tribunal not reserving matters for further consideration, nor striving to attain to unanimity of judgment, *Sir R. Bethell* 15. 43.

Correction of the Solicitor-general's evidence that the members of the appellate tribunal of the House do not in cases of difference of opinion reserve the matter for further consideration, or strive to attain to unanimity of judgment, *Right Hon. Lord St. Leonards* 1144.

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Upfill Case. Case of Mr. Upfill, under "The Winding-up Act," adverted to; general dissatisfaction given through the attendance only of Lord Brougham, who had to give judgment upon an appeal from the decision of his brother, Master Brougham, *Malins* 250–256.

The judgment of Lord Brougham was reversed in a similar case subsequently tried, *ib.* 251——Refusal of Lord Brougham to postpone the case till at least one other Lord was present, *ib.* 251. 254–256——Comments on the circumstance which arose in the case of a letter from Lord Cottenham, concurring with Lord Brougham's decision, having been read at the same time, though Lord Cottenham had not heard any part of the argument, *ib.* 252. 257–260.

Great pressure, under which Lord Brougham decided not to postpone the Upfill case, *Sir R. Bethell* 717–723——Concurrence of Lord Cottenham, though not present, in Lord Brougham's opinion in favour of the appellant, *ib.* 724–727——Adoption subsequently of a principle contrary to that laid down by Lord Brougham, in Upfill's case, without however directly affecting the accuracy of his decision, *ib.* 728, 729. 732——Impartial judgment given by Lord Brougham in the matter, *ib.* 728, 729.

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Writers to the Signet. Feeling of the Writers to the Signet in favour of the appointment of a Scotch lawyer to the Court; resolutions recently adopted by them on the subject, *Inglis* 821. 892–896——The writers to the Signet are about 500, about 300 of whom are in practice, *ib.* 893——They suggest that there be not less than three law Lords, of whom one should be a Scotch lawyer, *Right Hon. J. Hope* 935.

Written Judgments. Improvement if written judgments only were delivered, *Sir R. Bethell* 21–25——Practice, in the Judicial Committee of Privy Council, to deliver written judgments, *ib.* 25——It is desirable, in some respects, that written judgments only should be delivered, *Anderson* 664.

Written opinions are not generally submitted to the learned Lords for correction, but are frequently condensed by witness before they are printed, *Clark* 695–702——Written judgments should not be compulsory, except in the case of different opinions, *Inglis* 889–891——Objection to any fixed rule in regard to written or verbal opinions, *Lord Justice-General* 1021–1023.

Inexpediency and impracticability of the proposition that written judgments only should be delivered, *Right Hon. Lord St. Leonards* 1151——Great labour necessary in the case of written judgments, *ib.*

Wynford, Lord. Concurrence in certain judgments of Lord Wynford, about which complaint has been made in Scotland, *Right Hon. J. Hope* 941.

See also *Cochrane* v. *Ramsay.* *Graham* v. *The Magistrates of Montrose.* *M'Gavin* v. *Stewart.*